



## UTILITY & INFRASTRUCTURE BOARD

May 11, 2021 - 4:00 P.M.

Fremont Municipal Building, 2<sup>nd</sup> Floor Conference Room  
400 East Military, Fremont, Nebraska and Zoom

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Topic: Utility and Infrastructure Board Meeting

Time: May 11, 2021 04:00 PM Central Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/91270620187?pwd=L2w4Z2k5WUNmcExWNWs1TnJvN3Nldz09>

Meeting ID: 912 7062 0187

Passcode: 148052

One tap mobile

+16699009128,,91270620187# US (San Jose)

+12532158782,,91270620187# US (Tacoma)

Dial by your location

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 912 7062 0187

Find your local number: <https://zoom.us/u/aeajfdzW7T>

You will be connected to the meeting.

If making a comment during a public hearing or comment period please **press \*9 to electronically raise your hand** allowing the Chairman to call on you.

Once called upon to speak please press **\* 6 to unmute your phone; press \* 6 again to mute when finished speaking**

**UTILITY & INFRASTRUCTURE BOARD**  
**May 11, 2021 - 4:00 P.M.**  
**Fremont Municipal Building, 2<sup>nd</sup> Floor Conference Room**  
**400 East Military, Fremont, Nebraska and Zoom**

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**REGULAR MEETING:**

1. Meeting called to order
2. Roll call

**CONSENT AGENDA:** *All items in the consent agenda are considered to be routine by the Utility and Infrastructure Board and will be enacted by one motion. There will be no separate discussion of these items unless a Board Member or a citizen so requests, in which event the item will be removed from the consent agenda and considered separately.*

3. Approve minutes of April 27, 2021.
4. Consider Accounts Payable through May 11, 2021.

**REGULAR AGENDA:**

5. Receive David Shelso's resignation from the Utility and Infrastructure Board.
6. Consider agreements with Questline for renewal of newsletter services.
7. Consider bid to perform repairs to Lon D. Wright Power Plant Unit 8 Boiler Air Preheater.
8. Consider Municipal Agreement for State Projects with NDOT for the Highway 275, Douglas County North Improvement Project.
9. City Administrator Update (no board action is requested).
  - a. Lon D. Wright Power Plant Update
  - b. Data Farm Update
10. Adjournment

The agenda was posted at the Municipal Building on May 7, 2021. The agenda and enclosures are distributed to the Board and posted on the City of Fremont's website. The official current copy of the agenda is available at Municipal Building, 400 East Military, office of the City Administrator. A copy of the Open Meeting Law is posted in the 2<sup>nd</sup> floor conference room for review by the public. The Utility & Infrastructure Board reserves the right to adjust the order of items on this agenda.

**CITY OF FREMONT UTILITY AND INFRASTRUCTURE BOARD  
APRIL 27, 2021 - 4:00 P.M.**

A meeting of the Utility and Infrastructure Board was held on April 27, 2021 at 4:00 p.m. in the 2<sup>nd</sup> floor meeting room at 400 East Military, Fremont, Nebraska and via Zoom. The meeting was preceded by publicized notice in the Fremont Tribune and the agenda displayed in the Municipal Building. The meeting was open to the public. A continually current copy of the agenda was available for public inspection at the office of the City Administrator, 400 East Military. The agenda was distributed to the Utility and Infrastructure Board on April 23, 2021 and posted, along with the supporting documents, on the City's website. A copy of the open meeting law is posted continually for public inspection.

**ROLL CALL**

Roll call showed Board Members Sawtelle, Bolton, Wiese, and Larsen present. 1 vacancy. 4 members present, 1 vacancy. Others in attendance included Brian Newton, City Administrator; Troy Schaben, Asst City Admin – Utility; Jody Sanders, Director of Finance; Jeff Shanahan, Power Plant Supt.; Lottie Mitchell, Exec. Assist.; Al Kaspar, Elec. Dist. Supt.; and Nicolas Brand, Dir. of IT.

**CONSENT AGENDA**

Moved by Member Bolton and seconded by Member Larsen to approve items 3 and 4 (Minutes from April 13, 2021 and Accounts Payable through April 27, 2021). Ayes: Bolton, Wiese, Larsen, and Sawtelle. Motion carried 4-0.

**CONSIDER AGREEMENT WITH ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. FOR INFRASTRUCTURE TO VIEW, EDIT AND MANAGE GEOGRAPHIC INFORMATION SYSTEM DATA.**

Brand gave overview. Moved by Member Wiese and seconded by Member Bolton to recommend City Council approve agreement with Environmental Systems Research Institute, Inc. to view, edit and manage GIS data in the amount of \$77,400 for a three-year period. Ayes: Bolton, Wiese, Larsen, and Sawtelle. Motion carried 4-0.

**CONSIDER CONSENT AND CROSSING AGREEMENT WITH VCS FREMONT PROPERTY I, LLC TO CROSS FREMONT GAS PIPELINE.**

Schaben gave overview. Moved by Member Bolton and seconded by Member Wiese to recommend City Council approve Consent and Crossing Agreement with VCS Fremont Property I, LLC to cross Fremont gas pipeline. Ayes: Bolton, Wiese, Larsen, and Sawtelle. Motion carried 4-0.

**CONSIDER UTILITY DEPOSIT POLICY AND CONSIDER POTENTIAL MODIFICATIONS TO POLICY.**

Schaben handed out collection data to board. Moved by Member Bolton and seconded by Member Wiese to receive. Ayes: Larsen, Bolton, Wiese, Sawtelle. Motion carried 4-0. Schaben gave overview. Moved by Member Bolton and seconded by Member Larsen to keep deposit amount of \$200 but revise policy to return deposit after 12 months

instead of 24 months. Ayes: Bolton, Wiese, Larsen, and Sawtelle. Motion carried 4-0.

**CONSIDER WAIVER REQUEST OF MUNICIPAL CODE 3-231 REGARDING SANITARY SEWER TO RESIDENCES.**

Schaben gave overview. Public comments received. Moved by Member Larsen and seconded by Member Bolton to recommend staff work with legal counsel on language to define a time frame for which parcels Municipal Code 3-231 applies to. Ayes: Bolton, Larsen, and Sawtelle. Wiese abstained. Motion carried 3-0-1.

**CONSIDER EXTENSION OF THREE-YEAR CONTRACT FOR CITY OF FREMONT/DEPARTMENT OF UTILITIES BROKERAGE SERVICES FOR PROPERTY AND CASUALTY INSURANCE COVERAGE.**

Sanders gave overview. Moved by Member Wiese and seconded by Member Bolton to recommend City Council approve extension of three-year contract with AON for City of Fremont/Department of Utilities brokerage services for property and casualty insurance coverage in the amount of \$29,000 annually. Ayes, Bolton, Wiese, Larsen, and Sawtelle. Motion carried 4-0.

**CONSIDER CASH RESERVE POLICY.**

Sanders gave overview. Moved by Member Wiese and seconded by Member Bolton to recommend City Council approve the Cash Reserve Policy. Ayes, Bolton, Wiese, Larsen, and Sawtelle. Motion carried 4-0.

**CITY ADMINISTRATOR UPDATE (NO BOARD ACTION IS REQUESTED).**

- a. Newton gave update.

**ADJOURNMENT**

Moved by Member Bolton and seconded by Member Larsen to adjourn at 5:17 p.m. Ayes: Bolton, Wiese, Larsen, and Sawtelle. Motion carried 4-0.

## STAFF REPORT

**TO:** Utility and Infrastructure Board (UIB)

**FROM:** Jody Sanders, Director of Finance

**DATE:** May 11, 2021

**SUBJECT:** Claims

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**Recommendation:** Move to approve April 28 through May 11, 2021 claims, as well as subsequent claims due and payable before the next meeting of the UIB.

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**Background:** Staff is requesting approval by the UIB to pay claims that will become due and payable (by virtue of contractual agreements or regulatory requirements) before the next UIB meeting.

The amount due is not known as of this staff report, but the related vendors are listed below. These approved claims will still be presented as claims at the next UIB meeting and included in the total requested by Council for approval.

- Direct deposit of employee payroll on May 13, 2021 and related withholdings remitted to pension plans, federal and state tax withholdings, and garnishments.
- Nebraska Department of Revenue – all sales tax collected and use tax owed by the utility departments.
- Transmission and energy purchases payable to Southwest Power Pool, every Tuesday.
- Transmission and energy purchases payable to Omaha Public Power District, Department of Energy/WAPA, and Cottonwood Wind Project.
- Natural gas purchases from Northern Natural Gas/US Energy, BP, Cargill, Central Plains Energy Project (CPEP), and Public Energy Authority of Kentucky (PEAK).
- Coal purchases from Navajo Transitional Energy Co., Cloud Peak Energy Resources, and Peabody Coal, and freight charges to Union Pacific, as well as Pete Lien & Sons for lime and ADA Carbon Solutions for carbon, both for the Unit 8 scrubber.
- Progress payments to Emerson Process Management under the contract for the SCADA project.
- Bond principal and interest payments to BOK Financial NA.
- UPS weekly invoice for shipping costs, due within ten days or late fees are incurred.

There are a limited number of agencies that debit the City's bank account for credit card processing fees, kiosk fees, and bank analysis. These are based on a fee schedule.

**Fiscal Impact:** Utility funds claims total **\$ 3,520,261.99**

EAL DESCRIPTION: EAL: 04262021 ANDERSEND

PAYMENT TYPES

Checks . . . . .	Y
EFTs . . . . .	Y
ePayables . . . . .	Y

VOUCHER SELECTION CRITERIA

Voucher/discount due date . . . . .	04/26/2021
All banks . . . . .	A

REPORT SEQUENCE OPTIONS:

Vendor . . . . .	X	One vendor per page? (Y,N) . . . . .	N
Bank/Vendor . . . . .		One vendor per page? (Y,N) . . . . .	N
Fund/Dept/Div . . . . .		Validate cash on hand? (Y,N) . . . . .	N
Fund/Dept/Div/Element/Obj . . . . .		Validate cash on hand? (Y,N) . . . . .	N
Proj/Fund/Dept/Div/Elm/Obj . . . . .			

This report is by: Vendor

Process by bank code? (Y,N) . . . . .	Y
Print reports in vendor name sequence? (Y,N) . .	Y
Calendar year for 1099 withholding . . . . .	2021
Disbursement year/per . . . . .	2021/07
Payment date . . . . .	04/26/2021

VEND NO	SEQ#	VENDOR NAME		BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO		NO	NO						AMOUNT
0004597	00	BP CANADA ENERGY MARKETING							
21140377	MAR'21			00	04/26/2021	057-8205-807.50-02		383,357.22	Natural gas purchase
VENDOR TOTAL *								383,357.22	
0004760	00	SOUTHWEST POWER POOL INC							
20210422-FREM				00	04/26/2021	051-5105-555.50-00	SPP Settle 04/14-04/20/21	EFT:	79,263.70
VENDOR TOTAL *								.00	79,263.70
0003109	00	UPS							
5E9752171				00	04/26/2021	051-5001-940.60-79	04/24/21 Serv Chrg Share	8.25	
5E9752171				00	04/26/2021	051-5001-940.60-79	04/24/21 Serv Chrg Share	8.25	
5E9752171				00	04/26/2021	051-5105-502.60-79	RJ Lee Group Inc	178.07	
5E9752171				00	04/26/2021	051-5105-502.60-79	PCO Division	20.70	
5E9752171				00	04/26/2021	053-6105-502.50-23	Water Samples	144.89	
5E9752171				00	04/26/2021	055-7105-502.60-79	Environmental Analysis So	204.99	
VENDOR TOTAL *								565.15	
EFT/EPAY TOTAL ***									79,263.70
TOTAL EXPENDITURES ****								383,922.37	79,263.70
GRAND TOTAL *****									463,186.07

DEPARTMENT OF UTILITIES  
ELECTRONIC WITHDRAWAL LIST

FOR CITY COUNCIL MEETING: 05/11/21

AJ		WITHDRAWAL			WITHDRAWAL
GROUP NO	VENDOR NAME	DATE	ACCOUNT NO	ITEM DESCRIPTION	AMOUNT
6958	VANTIV	05/05/21	051-5001-903-60-77	KIOSK CREDIT CARD FEES	16.60
6747	TSYS MERCHANT SOLUTIONS	05/04/21	051-5001-903-60-77	CREDIT CARD FEES	1,459.88
6747	TSYS MERCHANT SOLUTIONS	05/04/21	051-5001-903-60-77	CREDIT CARD FEES	10,721.00
				TOTAL EXPENDITURES	12,197.48



EAL DESCRIPTION: EAL: 04292021 ANDERSEND

PAYMENT TYPES

Checks . . . . .	Y
EFTs . . . . .	Y
ePayables . . . . .	Y

VOUCHER SELECTION CRITERIA

Voucher/discount due date . . . . .	04/29/2021
All banks . . . . .	A

REPORT SEQUENCE OPTIONS:

Vendor . . . . .	X	One vendor per page? (Y,N) . . . . .	N
Bank/Vendor . . . . .		One vendor per page? (Y,N) . . . . .	N
Fund/Dept/Div . . . . .		Validate cash on hand? (Y,N) . . . . .	N
Fund/Dept/Div/Element/Obj . . . . .		Validate cash on hand? (Y,N) . . . . .	N
Proj/Fund/Dept/Div/Elm/Obj . . . . .			

This report is by: Vendor

Process by bank code? (Y,N) . . . . .	Y
Print reports in vendor name sequence? (Y,N) . .	Y
Calendar year for 1099 withholding . . . . .	2021
Disbursement year/per . . . . .	2021/07
Payment date . . . . .	04/29/2021

VEND NO	SEQ#	VENDOR NAME		BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO		NO	NO						AMOUNT
0000584	00	CEI							
20210429		PR0429		00	04/29/2021	051-0000-241.00-00	PAYROLL SUMMARY	EFT:	117,721.37
VENDOR TOTAL *								.00	117,721.37
0001964	00	IBEW LOCAL UNION 1536							
20210401		PR0401		00	04/29/2021	051-0000-241.00-00	PAYROLL SUMMARY	1,723.35	
20210415		PR0415		00	04/29/2021	051-0000-241.00-00	PAYROLL SUMMARY	1,813.89	
VENDOR TOTAL *								3,537.24	
0004192	00	PAYROLL EFT DEDUCTIONS							
20210429		PR0429		00	04/29/2021	051-0000-241.00-00	PAYROLL SUMMARY	181,056.97	
VENDOR TOTAL *								181,056.97	
EFT/EPAY TOTAL ***									117,721.37
TOTAL EXPENDITURES *****								184,594.21	117,721.37
GRAND TOTAL *****									302,315.58

Prepared 4/28/21, 8:20:04  
Pay Date 4/29/21  
Primary FIRST NATIONAL BANK

CITY OF FREMONT  
Direct Deposit Register

Page 39

Program PR530L

Account Number	Employee Name	Social Security	Deposit Amount
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Final Total	287,706.97	Count	164
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EAL DESCRIPTION: EAL: 05042021 ANDERSEND

PAYMENT TYPES

Checks . . . . .	Y
EFTs . . . . .	Y
ePayables . . . . .	Y

VOUCHER SELECTION CRITERIA

Voucher/discount due date . . . . .	05/04/2021
All banks . . . . .	A

REPORT SEQUENCE OPTIONS:

Vendor . . . . .	X	One vendor per page? (Y,N) . . . . .	N
Bank/Vendor . . . . .		One vendor per page? (Y,N) . . . . .	N
Fund/Dept/Div . . . . .		Validate cash on hand? (Y,N) . . . . .	N
Fund/Dept/Div/Element/Obj . . . . .		Validate cash on hand? (Y,N) . . . . .	N
Proj/Fund/Dept/Div/Elm/Obj . . . . .			

This report is by: Vendor

Process by bank code? (Y,N) . . . . .	Y
Print reports in vendor name sequence? (Y,N) . .	Y
Calendar year for 1099 withholding . . . . .	2021
Disbursement year/per . . . . .	2021/08
Payment date . . . . .	05/04/2021

VEND NO	SEQ#	VENDOR NAME							EFT, EPAY OR
INVOICE		VOUCHER	P.O.	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	HAND-ISSUED
NO		NO	NO		DATE	NO	DESCRIPTION	AMOUNT	AMOUNT
0004760	00	SOUTHWEST POWER POOL INC							
20210429-FREM				00	05/03/2021	051-5105-555.50-00	SPP Settle 04/21-04/27/21	EFT:	48,497.70
VENDOR TOTAL *								.00	48,497.70
0003109	00	UPS							
5E9752181				00	05/04/2021	051-5001-940.60-79	05/01/21 Serv Chrg Share	8.25	
5E9752181				00	05/04/2021	051-5001-940.60-79	05/01/21 Serv Chrg Share	8.25	
5E9752181				00	05/04/2021	051-5105-502.60-79	RJ Lee Group Inc	267.15	
5E9752181				00	05/04/2021	051-5105-502.60-79	PCO Division	4.63-	
5E9752181				00	05/04/2021	053-6105-502.50-23	Water Samples	77.23	
5E9752181				00	05/04/2021	055-7105-502.60-79	Environmental Analysis So	204.99-	
VENDOR TOTAL *								151.26	
EFT/EPAY TOTAL ***									48,497.70
TOTAL EXPENDITURES ****								151.26	48,497.70
GRAND TOTAL *****									48,648.96

Tax Cat. | Nebr. I.D. Number | Rpt. Code | Tax Period  
1 | 55808 | 1 | 4/2021

Reference No.: 01B006364681  
Date Filed: Thu, May 06, 2021 09:16:23 AM  
Scheduled Payment Amount: 212,685.12  
Scheduled Payment Date: Wed, May 12, 2021

27753

Due Date: 05/20/2021

**NAME AND LOCATION**

DEPARTMENT OF UTILITIES  
400 E MILITARY AVE  
FREMONT, NE 68025-5141

**NAME AND MAILING ADDRESS**

DEPARTMENT OF UTILITIES  
400 E MILITARY AVE  
FREMONT, NE 68025-5141

☐ Check the box if your business has permanently closed, has been sold to someone else, or your permit is no longer needed.  
New owners must apply for their own sales tax permit.

1	Gross sales and services in Nebraska .....	1	5,412,691.00
2	Net Nebraska taxable sales .....	2	3,016,459.00
3	Nebraska sales tax (line 2 multiplied by .055) .....	3	165,905.25
4	Nebraska use tax .....	4	5,713.31
5	Local use tax from Nebraska Schedule I .....	5	1,563.52
6	Local sales tax from Nebraska Schedule I .....	6	39,578.04
7	Total Nebraska and local sales tax (line 3 plus line 6) .....	7	205,483.29
8	Sales tax collection fee (line 7 multiplied by .025; Maximum allowed \$75.00 per location) .....	8	75.00
9	Sales tax due (line 7 minus line 8) .....	9	205,408.29
10	Total Nebraska and local use tax (line 4 plus line 5) .....	10	7,276.83
11	Total Nebraska and local sales and use tax due (line 9 plus line 10) .....	11	212,685.12
12	Previous balance with applicable interest at 3.0% per year and payments received through .....	12	

13 BALANCE DUE (line 11 plus or minus line 12). Pay in full ..... 13 212,685.12

Under penalties of law, I declare that, as a taxpayer or preparer I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is correct and complete.

**NE Sales & Use Tax for the month of April 2021**

Sales Tax Payable	051-0000-236-0000	\$ 205,483.25
Use Tax	051-0000-236-0100	\$ 6,027.80
	053-0000-236-0100	\$ 53.73
	057-0000-236-0100	\$ 1,195.30

Collection Fee 051-5001-421-0000 \$ 74.96

Cash/Total Due 051-0000-131-0000 \$ 211,436.09

053-0000-131-0000 \$ 53.73

057-0000-131-0000 \$ 1,195.30

EAL DESCRIPTION: EAL: 05062021 ANDERSEND

PAYMENT TYPES

Checks . . . . .	Y
EFTs . . . . .	Y
ePayables . . . . .	Y

VOUCHER SELECTION CRITERIA

Voucher/discount due date . . . . .	05/12/2021
All banks . . . . .	A

REPORT SEQUENCE OPTIONS:

Vendor . . . . .	X	One vendor per page? (Y,N) . . . . .	N
Bank/Vendor . . . . .		One vendor per page? (Y,N) . . . . .	N
Fund/Dept/Div . . . . .		Validate cash on hand? (Y,N) . . . . .	N
Fund/Dept/Div/Element/Obj . . . . .		Validate cash on hand? (Y,N) . . . . .	N
Proj/Fund/Dept/Div/Elm/Obj . . . . .			

This report is by: Vendor

Process by bank code? (Y,N) . . . . .	Y
Print reports in vendor name sequence? (Y,N) . .	Y
Calendar year for 1099 withholding . . . . .	2021
Disbursement year/per . . . . .	2021/08
Payment date . . . . .	05/12/2021

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005098 INV1004495	00	ACCESS SYSTEMS PI3701	00	05/12/2021	051-5001-922.60-65	PO NUM 055519	5,622.69	
						VENDOR TOTAL *	5,622.69	
0000959 123006/3	00	ACE HARDWARE PI3721	00	05/12/2021	055-7105-502.50-35	PO NUM 054741	22.90	
						VENDOR TOTAL *	22.90	
0004920 AEM-21792-1	00	ADVANCED ELECTRICAL AND MOTOR PI3595	00	05/12/2021	051-5105-502.60-59	PO NUM 056278	EFT:	407.48
						VENDOR TOTAL *	.00	407.48
0004604 38081RS	00	AEROMET ENGINEERING INC PI3673	00	05/12/2021	051-5105-502.60-62	PO NUM 056007	265.00	
						VENDOR TOTAL *	265.00	
0003812 16849	00	AGORA ENVIRONMENTAL CONSULTING PI3587	00	05/12/2021	051-5105-502.60-61	PO NUM 054126	EFT:	515.00
						VENDOR TOTAL *	.00	515.00
0004276 9112498002	00	AIRGAS USA LLC PI3702	00	05/12/2021	051-5001-940.50-35	PO NUM 056062	EFT:	131.25
9111873055		PI3756	00	05/12/2021	051-5105-502.50-35	PO NUM 056098	EFT:	212.23
9112272819		PI3757	00	05/12/2021	051-5105-502.50-35	PO NUM 056098	EFT:	523.00
9112272819		PI3758	00	05/12/2021	051-5105-502.60-79	PO NUM 056098	EFT:	244.60
						VENDOR TOTAL *	.00	1,111.08
0000965 87253	00	ALL SYSTEMS LLC PI3599	00	05/12/2021	051-5001-940.50-35	PO NUM 056318	65.00	
87253		PI3600	00	05/12/2021	051-5001-940.60-61	PO NUM 056318	385.00	
						VENDOR TOTAL *	450.00	
0005327 36-54-543061-0	00	ALS GROUP USA CORP PI3674	00	05/12/2021	055-7105-502.50-35	PO NUM 056146	135.00	
36-54-543061-0		PI3675	00	05/12/2021	055-7105-502.60-54	PO NUM 056146	315.00	
36-54-543061-0		PI3676	00	05/12/2021	055-7105-502.60-76	PO NUM 056146	120.00	
						VENDOR TOTAL *	570.00	
0002612 11627756	00	ALTEC INDUSTRIES INC PI3515	00	05/12/2021	051-5205-580.50-35	PO NUM 056246	1,468.32	
						VENDOR TOTAL *	1,468.32	
0003973 1FT1-FT7K-N913	00	AMAZON CAPITAL SERVICES INC PI3511	00	05/12/2021	051-5001-922.50-42	PO NUM 056221	EFT:	44.95
13JD-L43H-4Q17		PI3709	00	05/12/2021	051-5001-922.50-42	PO NUM 056345	EFT:	56.44
						VENDOR TOTAL *	.00	101.39
0004585 51262 0521	00	AMERICAN BROADBAND INTERNET PI3689	00	05/12/2021	051-5001-922.50-53	PO NUM 054688	439.40	
						VENDOR TOTAL *	439.40	
0004186	00	ANDERSON INDUSTRIAL ENGINES INC						



PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004186 469356	00	ANDERSON INDUSTRIAL ENGINES INC PI3592	00	05/12/2021	053-6205-583.50-35	PO NUM 055872	EFT:	397.51
VENDOR TOTAL *							.00	397.51
0005139 9500000159873	00	AON RISK SERVICES CENTRAL INC	00	05/12/2021	051-0000-165.00-00	Broker Fee4/16/21-4/16/22	EFT:	11,600.00
9500000159873			00	05/12/2021	053-0000-165.00-00	Broker Fee4/16/21-4/16/22	EFT:	4,350.00
9500000159873			00	05/12/2021	055-0000-165.00-00	Broker Fee4/16/21-4/16/22	EFT:	4,350.00
9500000159873			00	05/12/2021	057-0000-165.00-00	Broker Fee4/16/21-4/16/22	EFT:	8,700.00
VENDOR TOTAL * Annual broker fee approved 4/27/2021 CC mtg							.00	29,000.00
0005199 12694	00	APX INC PI3688	00	05/12/2021	051-5105-502.60-61	PO NUM 053163	EFT:	157.45
VENDOR TOTAL *							.00	157.45
0002869 00195606	00	AQUA-CHEM INC PI3504	00	05/12/2021	053-6105-502.50-52	PO NUM 054906	1,962.00	
VENDOR TOTAL *							1,962.00	
0000983 31731	00	ARPS PI3598	00	05/12/2021	051-5205-580.50-35	PO NUM 056317	636.65	
31857		PI3712	00	05/12/2021	051-5205-580.50-35	PO NUM 056387	950.16	
VENDOR TOTAL *							1,586.81	
0002637 575355	00	BABCOCK & WILCOX CO (DIAMOND POWER) PI3585	00	05/12/2021	051-0000-153.00-00	PO NUM 056315	1,343.60	
575731		PI3715	00	05/12/2021	051-0000-153.00-00	PO NUM 056167	2,294.00	
575789		PI3744	00	05/12/2021	051-5105-502.50-35	PO NUM 056245	998.80	
VENDOR TOTAL *							4,636.40	
0002531 BA60386180	00	BABCOCK & WILCOX COMPANY PI3584	00	05/12/2021	051-0000-153.00-00	PO NUM 056247	EFT:	99,181.64
VENDOR TOTAL * Grinding rings & parts LDW plant							.00	99,181.64
0004558 22400	00	BLT PLUMBING HEATING & A/C INC PI3512	00	05/12/2021	051-5001-940.50-35	PO NUM 056229	1,812.89	
22400		PI3513	00	05/12/2021	051-5001-940.60-61	PO NUM 056229	880.00	
VENDOR TOTAL *							2,692.89	
0005278 FNFRMNTCUR18	00	BOKF NA	00	05/12/2021	051-5001-927.27-04	Combined Util Bond S 2018 Principal and	EFT:	171,374.06
FNFRMNTCUR18			00	05/12/2021	051-5001-928.02-00	Combined Util Bond S 2018 interest payments on	EFT:	56.25
FNFRMNTCUR18			00	05/12/2021	055-7001-927.27-04	Combined Util Bond S 2018 2018 bonds	EFT:	590,288.44
FNFRMNTCUR18			00	05/12/2021	055-7001-928.02-00	Combined Util Bond S 2018 outstanding	EFT:	193.75
VENDOR TOTAL *							.00	761,912.50
0003545 16633579	00	BOMGAARS SUPPLY INC PI3490	00	05/12/2021	055-7105-502.50-35	PO NUM 054743	70.15	
16634091		PI3588	00	05/12/2021	055-7105-502.50-35	PO NUM 054743	43.59	
16637484		PI3722	00	05/12/2021	055-7105-502.50-35	PO NUM 054743	78.46	

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO	SEQ#	VENDOR NAME		BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO		NO	NO						AMOUNT
<hr/>									
0003545	00	BOMGAARS SUPPLY INC							
VENDOR TOTAL *								192.20	
0002902	00	BORDER STATES / KRIZ-DAVIS							
921927547		PI3484		00	05/12/2021	051-0000-154.00-00	PO NUM 055431	EFT:	49.06
921927545		PI3486		00	05/12/2021	051-0000-154.00-00	PO NUM 056017	EFT:	518.16
921927548		PI3487		00	05/12/2021	051-0000-154.00-00	PO NUM 056050	EFT:	11.44
921927544		PI3488		00	05/12/2021	051-0000-154.00-00	PO NUM 056191	EFT:	42.48
921970726		PI3581		00	05/12/2021	051-0000-154.00-00	PO NUM 056050	EFT:	57.19
921970727		PI3583		00	05/12/2021	051-0000-154.00-00	PO NUM 056190	EFT:	774.89
921970728		PI3632		00	05/12/2021	051-0000-154.00-00	PO NUM 056321	EFT:	1,818.92
921927544		PI3507		00	05/12/2021	051-5001-940.50-35	PO NUM 056191	EFT:	16.05
921981279		PI3694		00	05/12/2021	051-5001-940.50-35	PO NUM 054753	EFT:	159.73
921987680		PI3710		00	05/12/2021	051-5105-502.50-35	PO NUM 056380	EFT:	358.33
921987680		PI3711		00	05/12/2021	051-5105-502.60-79	PO NUM 056380	EFT:	51.38
921927546		PI3505		00	05/12/2021	051-5205-580.50-35	PO NUM 056124	EFT:	791.30
921927544		PI3508		00	05/12/2021	051-5205-580.50-35	PO NUM 056191	EFT:	171.67
921964937		PI3634		00	05/12/2021	051-5205-580.50-35	PO NUM 054753	EFT:	98.83
921914701		PI3691		00	05/12/2021	051-5205-580.50-35	PO NUM 054753	EFT:	48.19
921971850		PI3692		00	05/12/2021	051-5205-580.50-35	PO NUM 054753	EFT:	146.93
921971935		PI3693		00	05/12/2021	051-5205-580.50-35	PO NUM 054753	EFT:	64.94
921913527		PI3493		00	05/12/2021	055-7105-502.50-35	PO NUM 054753	EFT:	66.86
921920350		PI3494		00	05/12/2021	055-7105-502.50-35	PO NUM 054753	EFT:	199.23
921929207		PI3495		00	05/12/2021	055-7105-502.50-35	PO NUM 054753	EFT:	17.56
921938255		PI3589		00	05/12/2021	055-7105-502.50-35	PO NUM 054753	EFT:	69.50
921963589		PI3633		00	05/12/2021	055-7105-502.50-35	PO NUM 054753	EFT:	112.30
VENDOR TOTAL *								.00	5,644.94
0004810	00	BRANDSAFWAY SOLUTIONS LLC							
731-D007705		PI3593		00	05/12/2021	051-5105-502.60-61	PO NUM 055987	7,800.30	
731-D007706		PI3594		00	05/12/2021	051-5105-502.60-59	PO NUM 056147	6,536.63	
731-D007728		PI3635		00	05/12/2021	051-5105-502.60-59	PO NUM 055912	12,223.88	
731-D007764		PI3636		00	05/12/2021	051-5105-502.60-59	PO NUM 056147	1,683.11	
VENDOR TOTAL *								28,243.92	
9999999	00	BRESTER CONSTRUCTION							
000081687		UT		00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	139.61	
VENDOR TOTAL *								139.61	
9999999	00	BRESTER CONSTRUCTION							
042321	BRESTER	MR		00	05/12/2021	051-0000-232.00-00	Brester Construction	955.00	
VENDOR TOTAL *								955.00	
0001574	00	BUNCH CO INC, W S							
13455		PI3670		00	05/12/2021	051-5105-502.60-61	PO NUM 055120	5,980.24	
VENDOR TOTAL *								5,980.24	
0004518	00	CAPPEL AUTO SUPPLY INC							
040085		PI3499		00	05/12/2021	051-5001-940.50-35	PO NUM 054774	74.83	
040141		PI3501		00	05/12/2021	051-5001-940.50-35	PO NUM 054774	31.63	

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004518	00	CAPPEL AUTO SUPPLY INC						
040353		PI3597	00	05/12/2021	051-5001-940.50-35	PO NUM 056303	955.45	
039716		PI3496	00	05/12/2021	051-5105-502.50-48	PO NUM 054774	88.03	
039934		PI3497	00	05/12/2021	051-5105-502.50-48	PO NUM 054774	183.91	
040241		PI3590	00	05/12/2021	051-5105-502.50-35	PO NUM 054774	234.85	
040090		PI3500	00	05/12/2021	051-5205-580.50-48	PO NUM 054774	229.29	
040217		PI3518	00	05/12/2021	051-5205-580.50-35	PO NUM 056311	328.54	
040217		PI3519	00	05/12/2021	051-5205-580.60-79	PO NUM 056311	20.76	
040221		PI3502	00	05/12/2021	053-6205-583.50-48	PO NUM 054774	224.74	
040013		PI3498	00	05/12/2021	057-8205-870.50-48	PO NUM 054774	37.54	
040219		PI3517	00	05/12/2021	057-8205-870.50-48	PO NUM 056295	317.29	
VENDOR TOTAL *							2,726.86	
0004144	00	CARPENTER PAPER COMPANY						
349805		PI3630	00	05/12/2021	051-0000-154.00-00	PO NUM 055747	704.60	
349806		PI3631	00	05/12/2021	051-0000-154.00-00	PO NUM 055747	710.48	
353213		PI3720	00	05/12/2021	051-0000-154.00-00	PO NUM 056362	353.29	
VENDOR TOTAL *							1,768.37	
0003817	00	CED AUTOMATION OMAHA						
5411-1021052		PI3516	00	05/12/2021	051-5105-502.50-35	PO NUM 056290	402.32	
VENDOR TOTAL *							402.32	
0000584	00	CEI						
MAY 21 WC			00	05/12/2021	051-5001-919.20-29	May 2021 Workers Comp	EFT:	31,250.00
VENDOR TOTAL *							.00	31,250.00
0004615	00	CENTRAL PLAINS ENERGY PROJECT*WIRE*						
042112A197			00	05/12/2021	057-8205-807.50-02	Apr '21 CPEP3	23,231.25	Natural gas
042118A885			00	05/12/2021	057-8205-807.50-02	Apr '21 CPEP4	96,075.00	purchases
VENDOR TOTAL *							119,306.25	
0002951	00	CENTRAL STATES GROUP						
1417793-00		PI3506	00	05/12/2021	051-5105-502.50-35	PO NUM 056170	15.44	
1417239-00		PI3637	00	05/12/2021	051-5105-502.50-35	PO NUM 056243	498.48	
1417239-01		PI3638	00	05/12/2021	051-5105-502.50-35	PO NUM 056243	2,720.78	
VENDOR TOTAL *							3,234.70	
0002675	00	CENTURYLINK						
4027216169	0521	PI3696	00	05/12/2021	051-5001-922.50-53	PO NUM 054848	108.52	
4027216223	0521	PI3697	00	05/12/2021	051-5001-922.50-53	PO NUM 054848	104.73	
4027219747	0521	PI3698	00	05/12/2021	051-5001-922.50-53	PO NUM 054848	60.08	
4027216169	0421	PI3748	00	05/12/2021	051-5001-922.50-53	PO NUM 054848	107.56	
4027216223	0421	PI3749	00	05/12/2021	051-5001-922.50-53	PO NUM 054848	103.77	
4027219747	0421	PI3750	00	05/12/2021	051-5001-922.50-53	PO NUM 054848	59.91	
VENDOR TOTAL *							544.57	
9999999	00	CHARLES H DIERS LLC						
000077817		UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	116.54	
VENDOR TOTAL *							116.54	
0004266	00	CLEAR IMAGE SIGNS & GRAPHICS						

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004266 3891	00	CLEAR IMAGE SIGNS & GRAPHICS PI3734	00	05/12/2021	051-5001-932.60-61	PO NUM 055998	90.00	
						VENDOR TOTAL *	90.00	
0003592 38268	00	COMMERCIAL AIR MANAGEMENT INC PI3514	00	05/12/2021	055-7105-502.50-35	PO NUM 056237	736.00	
						VENDOR TOTAL *	736.00	
0004152 0056115	00	CORE & MAIN LP PI3510	00	05/12/2021	053-6205-583.50-35	PO NUM 056219	647.83	
						VENDOR TOTAL *	647.83	
0004177 030821/IRELAND	00	CREDIT MANAGEMENT SERVICES INC PI3713	00	05/12/2021	051-5001-903.55-04	PO NUM 056392	14.76	
						VENDOR TOTAL *	14.76	
0001643 1000773	00	CULLIGAN OF OMAHA PI3503	00	05/12/2021	055-7105-502.50-95	PO NUM 054813	32.00	
						VENDOR TOTAL *	32.00	
0004061 117429	00	DANIELSON TECH SUPPLY INC PI3509	00	05/12/2021	051-5001-940.50-35	PO NUM 056211	389.48	
						VENDOR TOTAL *	389.48	
9999999 000073875	00	DELUNA, REBECCA UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	20.00	
						VENDOR TOTAL *	20.00	
0004626 02049345025	00	DELUXE PI3707	00	05/12/2021	051-5001-903.50-31	PO NUM 056309	265.35	
						VENDOR TOTAL *	265.35	
0003185 BFPB002860421	00	DEPARTMENT OF ENERGY 00	00	05/12/2021	051-5105-555.50-00	Apr 2021		EFT: 49,628.51
							Hydro electric power puchase (WAPA)	
						VENDOR TOTAL *	.00	49,628.51
0003050 042621	00	DEPT OF HEALTH & HUMAN SERVICES PI3601	00	05/12/2021	053-6205-583.60-62	PO NUM 056363	760.00	
						VENDOR TOTAL *	760.00	
0005277 GB201008	00 #11	DICON CORPORATION PI3659	00	05/12/2021	051-5001-950.80-50	PO NUM 054249	82,176.69	Elevator project progress payment CCR 2020-110
						VENDOR TOTAL *	82,176.69	
0001313 131041	00	DILLON CHEVROLET FREMONT INC, SID PI3491	00	05/12/2021	051-5001-940.50-35	PO NUM 054747	23.54	
1TCS730571		PI3621	00	05/12/2021	051-5105-502.50-48	PO NUM 056294	527.14	
1TCS730571		PI3622	00	05/12/2021	051-5105-502.60-59	PO NUM 056294	195.00	
131084		PI3492	00	05/12/2021	057-8205-870.50-48	PO NUM 054747	92.29	
						VENDOR TOTAL *	837.97	
9999999	00	DMT CLEAR GAS SOLUTIONS						

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
9999999 000082875	00	DMT CLEAR GAS SOLUTIONS UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	462.59	
						VENDOR TOTAL *	462.59	
0003091 S17897-2 S20351-1 S19600-1	00	DUTTON-LAINSON CO PI3483 PI3485 PI3580	00	05/12/2021 05/12/2021 05/12/2021	051-0000-156.00-00 051-0000-154.00-00 051-0000-154.00-00	PO NUM 054979 PO NUM 055929 PO NUM 055684	EFT: EFT: EFT:	10,563.04 310.30 368.51
						VENDOR TOTAL *	.00	11,241.85
0004605 52070664	00	DXP ENTERPRISES INC PI3489	00	05/12/2021	051-0000-153.00-00	PO NUM 056204	EFT:	2,921.10
						VENDOR TOTAL *	.00	2,921.10
9999999 000023263	00	EHLERS, JOHN UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	106.99	
						VENDOR TOTAL *	106.99	
0002674 0891653-IN	00	ELECTRIC PUMP INC PI3640	00	05/12/2021	055-7105-502.50-35	PO NUM 056307	EFT:	575.76
						VENDOR TOTAL *	.00	575.76
0004551 20202 20279 20237	00	ELEMETAL FABRICATION LLC PI3549 PI3641 PI3596	00	05/12/2021 05/12/2021 05/12/2021	051-5001-940.50-35 051-5205-580.50-48 055-7205-583.50-35	PO NUM 056264 PO NUM 056355 PO NUM 056302	319.29 483.96 345.86	
						VENDOR TOTAL *	1,149.11	
0001091 15451-453	00	EMANUEL PRINTING INC PI3708	00	05/12/2021	051-5001-903.50-31	PO NUM 056342	966.04	
						VENDOR TOTAL *	966.04	
0003771 1000645885 1000644577 1000644742 1000644776	00	ENVIRONMENTAL EXPRESS INC PI3639 PI3543 PI3544 PI3545	00	05/12/2021 05/12/2021 05/12/2021 05/12/2021	051-5105-502.50-35 055-7105-502.50-35 055-7105-502.50-35 055-7105-502.50-35	PO NUM 056277 PO NUM 056220 PO NUM 056220 PO NUM 056220	114.08 3,162.72 571.70 592.25	
						VENDOR TOTAL *	4,440.75	
0002050 NEFRE182918 NEFRE182674 NEFRE182470 NEFRE182639 NEFRE182879	00	FASTENAL CO PI3687 PI3704 PI3525 PI3526 PI3690	00	05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021	051-0000-154.00-00 051-5001-940.50-35 051-5105-502.50-35 051-5105-502.50-35 051-5105-502.50-35	PO NUM 056327 PO NUM 056260 PO NUM 054748 PO NUM 054748 PO NUM 054748	EFT: EFT: EFT: EFT: EFT:	315.37 163.69 98.40 65.97 214.75
						VENDOR TOTAL *	.00	858.18
0001729 4738096	00	FCX PERFORMANCE INC PI3686	00	05/12/2021	051-0000-153.00-00	PO NUM 056298	276.20	
						VENDOR TOTAL *	276.20	
0004993	00	FIKES COMMERCIAL HYGIENE LLC						

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004993 33677	00	FIKES COMMERCIAL HYGIENE LLC PI3665	00	05/12/2021	051-5001-932.60-61	PO NUM 054780	EFT:	164.78
						VENDOR TOTAL *	.00	164.78
0005341 104330	00	FREEDOM SPECIALTY CONTRACTING INC PI3551	00	05/12/2021	051-5001-932.60-61	PO NUM 056292	1,947.60	
						VENDOR TOTAL *	1,947.60	
0004833 APR21	00	FREMONT AREA UNITED WAY CARESHARE	00	05/12/2021	055-0000-242.02-00	Apr 2021 Care & Share	EFT:	845.50
						VENDOR TOTAL *	.00	845.50
0001131 971402 974848	00	FREMONT TRIBUNE PI3531 PI3695	00	05/12/2021 05/12/2021	051-5001-926.60-78 051-5001-920.60-78	PO NUM 054771 PO NUM 054771	8.84 48.56	
						VENDOR TOTAL *	57.40	
0001132 359941 01 359993 01	00	FREMONT WINNELSON CO PI3527 PI3542	00	05/12/2021 05/12/2021	051-5001-932.50-45 051-5001-932.50-35	PO NUM 054749 PO NUM 056214	39.08 1,069.65	
						VENDOR TOTAL *	1,108.73	
0005211 91214203 91214204	00	GE STEAM POWER INC PI3629 PI3703	00	05/12/2021 05/12/2021	051-0000-153.00-00 051-5105-502.60-79	PO NUM 055463 PO NUM 056065	EFT: EFT:	8,955.90 41.44
						VENDOR TOTAL *	.00	8,997.34
9999999 000069507	00	GEHRMAN, KIMBERLY M UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	200.00	
						VENDOR TOTAL *	200.00	
9999999 000082215	00	GOGOLSKI, SUSAN M UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	162.86	
						VENDOR TOTAL *	162.86	
0002804 3005303	00	GOVERNMENT FINANCE OFFICERS ASSN PI3683	00	05/12/2021	051-5001-920.60-62	PO NUM 056374	420.00	
						VENDOR TOTAL *	420.00	
0003155 12306388	00	HACH COMPANY PI3591	00	05/12/2021	055-7105-502.60-59	PO NUM 055647	2,035.00	
						VENDOR TOTAL *	2,035.00	
0005324 FR864 FR864 FR864 FR923 FR923 FR923	00	HANSEN TIRE & TRUCK REPAIR LLC PI3552 PI3553 PI3554 PI3677 PI3678 PI3679	00	05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021	051-5205-580.50-48 051-5205-580.60-59 051-5205-580.60-61 053-6205-583.50-48 053-6205-583.60-59 053-6205-583.60-61	PO NUM 056301 PO NUM 056301 PO NUM 056301 PO NUM 056261 PO NUM 056261 PO NUM 056261	681.95 60.00 55.34 872.78 120.00 37.90	

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005324 FR884 FR884 FR874 FR874	00	HANSEN TIRE & TRUCK REPAIR LLC PI3537 PI3538 PI3535 PI3536	00	05/12/2021 05/12/2021 05/12/2021 05/12/2021	055-7105-502.50-48 055-7105-502.60-59 057-8205-870.50-48 057-8205-870.60-59	PO NUM 055661 PO NUM 055661 PO NUM 055661 PO NUM 055661	12.00 20.00 2.11 20.00	
						VENDOR TOTAL *	1,882.08	
0004469 480812 481336	00	HAYES MECHANICAL PI3539 PI3672	00	05/12/2021 05/12/2021	051-5105-502.60-61 051-5105-502.60-61	PO NUM 055830 PO NUM 055830	20,478.50 16,740.60	Boiler makers for U8 outage LDW
						VENDOR TOTAL *	37,219.10	
0002794 1200343621	00	HDR ENGINEERING INC PI3658	00	05/12/2021	051-5105-502.60-59	PO NUM 051910	EFT:	2,869.55
						VENDOR TOTAL *	.00	2,869.55
0005281 59655	00	HERITAGE NURSERY INC PI3657	00	05/12/2021	051-5205-580.50-35	PO NUM 056359	845.00	
						VENDOR TOTAL *	845.00	
0004036 1760	00	INDUSTRIAL DESIGN SOLUTIONS INC PI3586	00	05/12/2021	051-5105-502.60-61	PO NUM 042701	445.00	
						VENDOR TOTAL *	445.00	
0003483 455889	00	INTERSTATE CHEMICAL CO INC PI3700	00	05/12/2021	051-5105-502.50-52	PO NUM 055409	3,561.71	
						VENDOR TOTAL *	3,561.71	
0004066 216375 216375	00	INTERSTATE INDUSTRIAL INSTR INC PI3705 PI3706	00	05/12/2021 05/12/2021	057-8205-870.50-35 057-8205-870.60-79	PO NUM 056293 PO NUM 056293	238.62 53.50	
						VENDOR TOTAL *	292.12	
0003074 20210401 20210415 567 - 043021 1110 - 043021 1110 - 043021 567 - 043021 567 - 043021 1110 - 043021 567 - 043021 567 - 043021 567 - 043021 1110 - 043021 567 - 043021	00	JACKSON SERVICES INC PR0401 PR0415	00	05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021	051-0000-241.00-00 051-0000-241.00-00 051-5001-940.20-29 051-5001-932.50-46 051-5001-940.50-46 051-5105-502.50-46 051-5105-502.20-29 051-5105-502.50-46 051-5205-580.20-29 051-5205-580.20-29 053-6205-583.20-29 055-7105-502.20-29 055-7105-502.50-46 057-8205-870.20-29	PAYROLL SUMMARY PAYROLL SUMMARY Apr Uniforms/Whse Apr Mats/Mops/Towels Apr Mats/Mops/Towels Apr Mops Apr Uniforms Apr Mats Apr Uniforms/Elect Distr Apr Uniforms/Engineers Apr Uniforms Apr Uniforms Apr Mats/Mops Apr Uniforms	EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT:	135.52 135.52 95.40 139.00 886.86 40.10 1,072.46 578.70 1,694.85 71.90 422.90 265.78 138.78 930.10
						VENDOR TOTAL *	.00	6,607.87
0000614	00	JERRY'S ELECTRIC INC						

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000614 L04-011-2021	00	JERRY'S ELECTRIC INC PI3532	00	05/12/2021	051-5205-580.60-61	PO NUM 054810	62.50	
						VENDOR TOTAL *	62.50	
0005130 D430437	00	KAMAN INDUSTRIAL TECHNOLOGIES CORP PI3582	00	05/12/2021	051-0000-153.00-00	PO NUM 056106	2,242.70	
						VENDOR TOTAL *	2,242.70	
0003085 S11131560-0	00	KELLY SUPPLY CO PI3546	00	05/12/2021	055-7105-502.50-35	PO NUM 056238	EFT:	650.25
						VENDOR TOTAL *	.00	650.25
9999999 043021 KETCHEM	00	KETCHEM, RON & PAM PI3546	00	05/12/2021	051-5105-548.50-04	Ron&Pam Ketchem/5 Panels	504.00	
						VENDOR TOTAL *	504.00	
0002945 229240 230020	00	LYMAN RICHEY SAND & GRAVEL PI3609 PI3664	00	05/12/2021 05/12/2021	051-5205-580.50-35 051-5205-580.50-35	PO NUM 054756 PO NUM 054756	130.85 153.79	
						VENDOR TOTAL *	284.64	
0002052 51796901 0023421100 0023431978 0023457949 0023446633 0023447174 51792223 51799486 0023445629 0023446519 51796901 51796901	00	MATHESON LINWELD PI3726 PI3528 PI3534 PI3671 PI3723 PI3724 PI3725 PI3733 PI3736 PI3745 PI3727 PI3728	00	05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021 05/12/2021	051-5001-940.60-76 051-5105-502.50-35 051-5105-502.50-35 051-5105-502.50-35 051-5105-502.50-35 051-5105-502.50-35 051-5105-502.60-76 051-5105-502.60-76 051-5105-502.50-35 051-5105-502.50-35 051-5205-580.60-76 057-8205-870.60-76	PO NUM 054755 PO NUM 054755 PO NUM 055562 PO NUM 055562 PO NUM 054755 PO NUM 054755 PO NUM 054755 PO NUM 055562 PO NUM 056184 PO NUM 056314 PO NUM 054755 PO NUM 054755	EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT: EFT:	89.56 37.69 223.04 223.04 144.65 461.73 91.49 69.02 424.58 78.46 128.39 65.16
						VENDOR TOTAL *	.00	2,036.81
0002963 736	00	MCGILL ASBESTOS ABATEMENT LLC PI3611	00	05/12/2021	051-5105-502.60-59	PO NUM 055649	32,849.50	U6 BOILER STUDY- REMOVAL/REPLACEMENT OF INSULATION LDW
						VENDOR TOTAL *	32,849.50	
0000667 57036861 57249921 57249921 57304345	00	MCMASTER-CARR SUPPLY CO PI3651 PI3680 PI3681 PI3682	00	05/12/2021 05/12/2021 05/12/2021 05/12/2021	051-5105-502.50-35 051-5105-502.50-35 051-5105-502.50-35 051-5105-502.50-35	PO NUM 056284 PO NUM 056328 PO NUM 056328 PO NUM 056340	114.59 12.88 539.91 674.80	
						VENDOR TOTAL *	1,342.18	
0001229 09203 09029	00	MENARDS - FREMONT PI3717 PI3529	00	05/12/2021 05/12/2021	051-0000-154.00-00 051-5001-940.50-35	PO NUM 056255 PO NUM 054758	59.37 171.86	



PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0001229	00	MENARDS - FREMONT						
09507		PI3646	00	05/12/2021	051-5001-940.50-35	PO NUM 054758	8.29	
09580		PI3647	00	05/12/2021	051-5001-940.50-35	PO NUM 054758	6.20	
09645		PI3729	00	05/12/2021	051-5001-940.50-35	PO NUM 054758	30.43	
09216		PI3530	00	05/12/2021	057-8205-870.50-35	PO NUM 054758	28.22	
						VENDOR TOTAL *	304.37	
0002960	00	MIDLAND SCIENTIFIC INC						
6265327		PI3652	00	05/12/2021	055-7105-502.50-35	PO NUM 056306	339.50	
						VENDOR TOTAL *	339.50	
0003008	00	MIDWEST LABORATORIES INC						
1035235		PI3608	00	05/12/2021	051-5105-502.60-61	PO NUM 053196	158.25	
						VENDOR TOTAL *	158.25	
9999999	00	MLNARIK, RYAN						
131576	MLNARIK		00	05/12/2021	051-0000-105.00-00	Ryan Mlnarik Ovrpay URD	8.17	
						VENDOR TOTAL *	8.17	
0001486	00	MOTION INDUSTRIES INC						
NE01-560597		PI3521	00	05/12/2021	051-0000-153.00-00	PO NUM 056181	327.99	
NE01-560597		PI3522	00	05/12/2021	051-0000-153.00-00	PO NUM 056181	.66	
NE01-560735		PI3523	00	05/12/2021	051-0000-153.00-00	PO NUM 056181	20.04	
560886/561056		PI3604	00	05/12/2021	051-0000-153.00-00	PO NUM 056268	52.78	
NE01-560596		PI3541	00	05/12/2021	051-5105-502.50-35	PO NUM 056185	419.87	
NE01-560928		PI3617	00	05/12/2021	051-5105-502.50-35	PO NUM 056194	366.69	
NE01-560908		PI3619	00	05/12/2021	051-5105-502.50-35	PO NUM 056224	702.90	
						VENDOR TOTAL *	1,890.93	
0002985	00	MSC INDUSTRIAL SUPPLY CO INC						
83134303		PI3644	00	05/12/2021	051-0000-154.00-00	PO NUM 056323	EFT:	213.45
83134313		PI3645	00	05/12/2021	051-0000-154.00-00	PO NUM 056323	EFT:	138.03
83431603		PI3714	00	05/12/2021	051-0000-154.00-00	PO NUM 055906	EFT:	57.14
84393203		PI3718	00	05/12/2021	051-0000-154.00-00	PO NUM 056357	EFT:	375.44
84393213		PI3719	00	05/12/2021	051-0000-154.00-00	PO NUM 056357	EFT:	172.86
80986533		PI3540	00	05/12/2021	051-5001-940.50-35	PO NUM 056180	EFT:	319.80
80205763		PI3547	00	05/12/2021	051-5001-940.50-35	PO NUM 056262	EFT:	572.25
80205773		PI3548	00	05/12/2021	051-5001-940.50-35	PO NUM 056262	EFT:	56.31
83460283		PI3612	00	05/12/2021	051-5001-940.50-35	PO NUM 056002	EFT:	1,879.84
83134313		PI3656	00	05/12/2021	051-5001-940.50-35	PO NUM 056323	EFT:	43.82
81592273		PI3550	00	05/12/2021	051-5105-502.50-35	PO NUM 056283	EFT:	522.16
81859003		PI3623	00	05/12/2021	051-5105-502.50-35	PO NUM 056297	EFT:	202.49
81859013		PI3624	00	05/12/2021	051-5105-502.50-35	PO NUM 056297	EFT:	28.98
83349263		PI3625	00	05/12/2021	051-5105-502.50-35	PO NUM 056297	EFT:	57.65
83105513		PI3654	00	05/12/2021	051-5205-580.50-48	PO NUM 056320	EFT:	427.99
83105513		PI3655	00	05/12/2021	057-8205-870.50-48	PO NUM 056320	EFT:	427.99
						VENDOR TOTAL *	.00	5,496.20
0000746	00	MUELLER CO LLC						
65189936		PI3650	00	05/12/2021	057-8205-870.50-35	PO NUM 055327	52.15	

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000746	00	MUELLER CO LLC						
						VENDOR TOTAL *	52.15	
0003057 NE0203777/2021	00 PI3533	NEBR DEPT OF ENVIRONMENT AND ENERGY	00	05/12/2021	051-5105-502.60-77	PO NUM 054879	300.00	
						VENDOR TOTAL *	300.00	
0001430 042821	00 PI3747	NEBRASKA RURAL WATER ASSOCIATION	00	05/12/2021	055-7105-502.60-62	PO NUM 056393	75.00	
						VENDOR TOTAL *	75.00	
0005322 205 205	00 PI3684 PI3685	NEWILL PLUMBING LLC	00	05/12/2021	051-5001-932.50-35	PO NUM 056390	165.01	
			00	05/12/2021	051-5001-932.60-61	PO NUM 056390	525.00	
						VENDOR TOTAL *	690.01	
0004871 2009-093	00 PI3520	NIFCO MECHANICAL SYSTEMS INC	00	05/12/2021	051-0000-153.00-00	PO NUM 052548	1,663.85	
						VENDOR TOTAL *	1,663.85	
0003136 1049 APR 2021	00	NORTHERN NATURAL GAS CO *FNB WIRE*	00	05/12/2021	057-8205-807.50-02		117,844.04	Natural gas purchase
						VENDOR TOTAL *	117,844.04	
0005298 CD20004813	00 PI3605	NOVASPECT INC	00	05/12/2021	051-0000-153.00-00	PO NUM 056287	478.26	
						VENDOR TOTAL *	478.26	
0001020 0397-406480 0397-408213 0397-410164 0397-409950 0397-409458 0397-408644	00 PI3558 PI3559 PI3563 PI3562 PI3561 PI3560	O'REILLY AUTOMOTIVE INC	00	05/12/2021	051-5001-940.50-35	PO NUM 054760	172.68	
			00	05/12/2021	051-5001-940.50-35	PO NUM 054760	139.72	
			00	05/12/2021	051-5001-940.50-35	PO NUM 054760	156.05	
			00	05/12/2021	051-5105-502.50-35	PO NUM 054760	117.68	
			00	05/12/2021	051-5205-580.50-48	PO NUM 054760	134.22	
			00	05/12/2021	057-8205-870.50-48	PO NUM 054760	109.14	
						VENDOR TOTAL *	829.49	
0002888 958198-0	00 PI3653	OFFICENET	00	05/12/2021	051-5001-903.50-40	PO NUM 056310	139.58	
						VENDOR TOTAL *	139.58	
0004804 00136003 00136003	00 PI3573 PI3574	OIL SKIMMERS INC	00	05/12/2021	051-5105-502.50-35	PO NUM 056233	445.25	
			00	05/12/2021	051-5105-502.60-79	PO NUM 056233	19.37	
						VENDOR TOTAL *	464.62	
0001624 60702	00 PI3643	OMAHA VALVE & FITTING CO	00	05/12/2021	051-0000-153.00-00	PO NUM 056273	1,258.13	
						VENDOR TOTAL *	1,258.13	
0004671	00	ONE CALL CONCEPTS INC						

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004671 1040137	00	ONE CALL CONCEPTS INC PI3731	00	05/12/2021	051-5001-940.60-61	PO NUM 054819	649.52	
						VENDOR TOTAL *	649.52	
0004320 6583	00	OPACITY CERTIFICATION SERVICES LLC PI3572	00	05/12/2021	051-5105-502.60-61	PO NUM 056070	229.28	
						VENDOR TOTAL *	229.28	
0004333 8480680	00	OVIVO USA LLC PI3642	00	05/12/2021	051-0000-153.00-00	PO NUM 056248	3,153.86	
						VENDOR TOTAL *	3,153.86	
9999999 000026473	00	PASEKA, KEITH UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	3,167.24	
						VENDOR TOTAL *	3,167.24	
0004567 54365	00	PCO DIVISION II INC PI3603	00	05/12/2021	051-0000-153.00-00	PO NUM 056232	1,430.65	
						VENDOR TOTAL *	1,430.65	
0003827 MNCBP BLD 042921	00	PEST PRO'S INC PI3669	00	05/12/2021	051-5001-932.60-61	PO NUM 055059	48.15	
ASH PD 042621		PI3660	00	05/12/2021	051-5105-502.60-61	PO NUM 054736	52.43	
CMBT TUR 042621		PI3661	00	05/12/2021	051-5105-502.60-61	PO NUM 054736	58.85	
PWR PLT 042621		PI3662	00	05/12/2021	051-5105-502.60-61	PO NUM 054736	90.95	
UTIL BLD 042621		PI3663	00	05/12/2021	051-5105-502.50-35	PO NUM 054736	73.83	
SUB STA 042621		PI3666	00	05/12/2021	051-5205-580.60-61	PO NUM 054818	209.41	
WTR PLT 042621		PI3668	00	05/12/2021	053-6105-502.60-61	PO NUM 054847	74.90	
WWTP 042621		PI3667	00	05/12/2021	055-7105-502.60-61	PO NUM 054820	140.00	
						VENDOR TOTAL *	748.52	
0004800 200001316	00	PINNACLE BANK - VISA HRAM PI3579	00	05/12/2021	051-5001-926.60-78	PO NUM 056279	100.00	
050321		BELLER JPI3735	00	05/12/2021	051-5001-926.60-61	PO NUM 056139	125.00	
050321		PI3746	00	05/12/2021	051-5001-926.60-62	PO NUM 056346	300.00	
042621		SELECTEPI3627	00	05/12/2021	057-8205-870.60-59	PO NUM 056331	85.59	
						VENDOR TOTAL *	610.59	
0001627 0634058-IN	00	PIPING RESOURCES INC PI3602	00	05/12/2021	051-0000-153.00-00	PO NUM 056169	EFT:	392.70
						VENDOR TOTAL *	.00	392.70
0004740 16145	00	PREMIER STAFFING INC PI3565	00	05/12/2021	051-5001-926.60-61	PO NUM 054773	200.00	
16186		PI3648	00	05/12/2021	051-5001-926.60-61	PO NUM 054773	80.00	
						VENDOR TOTAL *	280.00	
0004696 66529	00	PRIME COMMUNICATIONS INC PI3614	00	05/12/2021	051-5001-922.60-65	PO NUM 056113	3,543.84	10GB Switch replacement
66529		PI3615	00	05/12/2021	051-5001-950.80-50	PO NUM 056113	26,075.15	IT infrastructure

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004696	00	PRIME COMMUNICATIONS INC						
						VENDOR TOTAL *	29,618.99	
0005335 PIV108723	00	PROCESSBARRON PI3613	00	05/12/2021	051-5105-502.60-59	PO NUM 056056	26,450.00	U8 ID Fan inspection/ repair
						VENDOR TOTAL *	26,450.00	
0004866 020421A	00	QUESTLINE INC PI3610	00	05/12/2021	051-5001-903.60-61	PO NUM 054927	3,547.25	
						VENDOR TOTAL *	3,547.25	
0004413 32010883	00	RADWELL INTERNATIONAL INC PI3606	00	05/12/2021	051-0000-153.00-00	PO NUM 056288	276.86	
						VENDOR TOTAL *	276.86	
0002876 19731	00	RAWHIDE CHEMOIL INC PI3578	00	05/12/2021	051-5001-940.50-30	PO NUM 056271	20,996.81	Fuel for gasboy
						VENDOR TOTAL *	20,996.81	
0005317 69639	00	ROYAL SWITCHGEAR MANUFACTURING CO PI3649	00	05/12/2021	051-5205-580.50-35	PO NUM 055280	33,000.00	SUB H 69KV MANUAL GROUP OPERATED
						VENDOR TOTAL *	33,000.00	DISCONNECTS CCR 2020-234
0001304 2470	00	SAWYER CONSTRUCTION CO PI3618	00	05/12/2021	051-5105-502.60-61	PO NUM 056199	3,000.00	
						VENDOR TOTAL *	3,000.00	
0005128 CLIP13137	00	SCHLOSSER ENTERPRISES INC PI3738	00	05/12/2021	051-5001-932.60-61	PO NUM 056222	EFT:	90.00
CLIP13137		PI3739	00	05/12/2021	051-5001-940.60-61	PO NUM 056222	EFT:	80.00
CLIP13137		PI3740	00	05/12/2021	051-5105-502.60-61	PO NUM 056222	EFT:	260.00
CLIP13137		PI3741	00	05/12/2021	053-6105-502.60-61	PO NUM 056222	EFT:	350.00
CLIP13137		PI3742	00	05/12/2021	055-7205-583.60-61	PO NUM 056222	EFT:	210.00
CLIP13137		PI3743	00	05/12/2021	057-8205-870.60-61	PO NUM 056222	EFT:	40.00
						VENDOR TOTAL *	.00	1,030.00
0004989 0370753	00	SCS ENGINEERS PI3557	00	05/12/2021	051-5105-502.60-61	PO NUM 046454	375.00	
						VENDOR TOTAL *	375.00	
0004652 5700105180	00	SIEMENS INDUSTRY INC PI3568	00	05/12/2021	051-5205-580.50-35	PO NUM 055285	EFT:	15,639.12
						VENDOR TOTAL *	.00	15,639.12
0001316 9064	00	SIFFRING LANDSCAPING & GARDEN CNTR PI3737	00	05/12/2021	051-5001-932.50-43	PO NUM 056218	481.50	
						VENDOR TOTAL *	481.50	
0000429 251135	00	SKARSHAUG TESTING LABORATORY INC PI3555	00	05/12/2021	051-0000-154.00-00	PO NUM 056202	894.35	

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

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0000429	00	SKARSHAUG TESTING LABORATORY INC						
251181		PI3556	00	05/12/2021	051-0000-154.00-00	PO NUM 056216	534.37	
251260		PI3716	00	05/12/2021	051-0000-154.00-00	PO NUM 056216	404.28	
251202		PI3566	00	05/12/2021	051-5205-580.60-61	PO NUM 054776	261.20	
251202		PI3567	00	05/12/2021	051-5205-580.60-79	PO NUM 054776	183.99	
						VENDOR TOTAL *	2,278.19	
9999999	00	SOWERS, STEVEN						
000080303		UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	173.39	
						VENDOR TOTAL *	173.39	
0003923	00	STATE OF NEBRASKA - CELLULAR						
1265774			00	05/12/2021	051-5001-903.50-53	Cellular	EFT:	25.62
1265774			00	05/12/2021	051-5001-919.50-53	Cellular	EFT:	49.35
1265774			00	05/12/2021	051-5001-922.50-53	Cellular	EFT:	93.35
1265774			00	05/12/2021	051-5001-925.50-53	Cellular	EFT:	86.81
1265774			00	05/12/2021	051-5001-926.50-53	Cellular	EFT:	49.35
1265774			00	05/12/2021	051-5001-919.50-53	City-Language Line	EFT:	7.83
1265774			00	05/12/2021	051-5105-502.50-53	Cellular	EFT:	193.20
1265774			00	05/12/2021	051-5205-580.50-53	Engineers Cellular	EFT:	224.16
1265774			00	05/12/2021	051-5205-580.50-53	Elect Distr Cellular	EFT:	292.94
1265774			00	05/12/2021	053-6105-502.50-53	Cellular	EFT:	49.35
1265774			00	05/12/2021	053-6205-583.50-53	Cellular	EFT:	313.05
1265774			00	05/12/2021	055-7105-502.50-53	Cellular	EFT:	23.90
1265774			00	05/12/2021	057-8205-870.50-53	Cellular	EFT:	353.91
						VENDOR TOTAL *	.00	1,762.82
0004647	00	T SQUARE SUPPLY LLC						
27838		PI3564	00	05/12/2021	051-5001-940.50-35	PO NUM 054766	114.01	
27905		PI3628	00	05/12/2021	051-5105-502.50-35	PO NUM 056341	272.21	
27989		PI3730	00	05/12/2021	055-7105-502.50-30	PO NUM 054766	66.00	
						VENDOR TOTAL *	452.22	
9999999	00	TADRA, RONALD & KIM						
000069527		UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	35.75	
						VENDOR TOTAL *	35.75	
0004888	00	THE FILTER SHOP INC						
155259		PI3524	00	05/12/2021	055-0000-154.00-00	PO NUM 056236	416.32	
						VENDOR TOTAL *	416.32	
0000876	00	THERMAL ENGINEERING INTL (USA) INC						
TEI-008722		PI3755	00	05/12/2021	051-5105-502.60-61	PO NUM 055351	EFT:	25,260.00
							MAIN STEAM INLET EXP JOINT STEAM SURFACE CONDENSER LDW	
						VENDOR TOTAL *	.00	25,260.00
0005337	00	TODD VALLEY FARMS INC						
47488		PI3571	00	05/12/2021	051-5001-932.60-61	PO NUM 056066	1,043.25	
						VENDOR TOTAL *	1,043.25	
9999999	00	TROESTER, OMER & BERTHA						

PROGRAM: GM339L

AS OF: 05/12/2021

PAYMENT DATE: 05/12/2021

DEPARTMENT OF UTILITIES

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
9999999 000016995	00	TROESTER, OMER & BERTHA UT	00	05/12/2021	051-0000-143.00-00	MANUAL CHECK	3.32	
						VENDOR TOTAL *	3.32	
0003478 132549619	00	ULINE PI3620	00	05/12/2021	051-5105-502.50-35	PO NUM 056226	1,821.70	
						VENDOR TOTAL *	1,821.70	
0001914 313130232	00	UNION PACIFIC RAILROAD	00	05/12/2021	051-0000-152.00-00	5/01/21	EFT:	320,575.79
						Freight on coal purchase		
						VENDOR TOTAL *	.00	320,575.79
0000647 574703	00	USABLUBOOK PI3616	00	05/12/2021	051-5105-502.50-35	PO NUM 056120	162.91	
575126		PI3575	00	05/12/2021	053-6105-502.50-52	PO NUM 056257	1,558.47	
575126		PI3576	00	05/12/2021	053-6205-583.50-35	PO NUM 056257	137.38	
575126		PI3577	00	05/12/2021	053-6205-583.60-79	PO NUM 056257	22.78	
						VENDOR TOTAL *	1,881.54	
0003213 CD850008532	00	VALMONT INDUSTRIES INC PI3732	00	05/12/2021	051-5205-580.50-35	PO NUM 055204	151,642.54	SUBSTATION H STRUCTURAL STEEL
						VENDOR TOTAL *	151,642.54	
0004316 P0741002	00	VERMEER HIGH PLAINS PI3626	00	05/12/2021	055-7105-502.50-35	PO NUM 056330	80.40	
						VENDOR TOTAL *	80.40	
0002907 21040364	00	WALNUT RADIO LLC (KHUB) PI3699	00	05/12/2021	051-5001-903.60-78	PO NUM 055102	234.00	
						VENDOR TOTAL *	234.00	
0002894 5913536	00	WASTE CONNECTIONS OF NE INC PI3751	00	05/12/2021	051-5001-932.50-49	PO NUM 054858	273.63	
5913536		PI3752	00	05/12/2021	051-5001-940.50-49	PO NUM 054858	553.30	
5913536		PI3753	00	05/12/2021	051-5105-502.50-49	PO NUM 054858	313.38	
5913536		PI3754	00	05/12/2021	055-7105-502.50-49	PO NUM 054858	1,120.55	
						VENDOR TOTAL *	2,260.86	
0004336 29724	00	WATERLINK INC PI3569	00	05/12/2021	051-5105-502.50-52	PO NUM 055792	21,401.08	Chemicals for water lab at LDW
						VENDOR TOTAL *	21,401.08	
0005330 2611475-00	00	WELDON PARTS INC PI3570	00	05/12/2021	051-5001-940.50-35	PO NUM 055975	2,273.00	
						VENDOR TOTAL *	2,273.00	
0000482 686872	00	WESCO RECEIVABLES CORP PI3607	00	05/12/2021	051-0000-154.00-00	PO NUM 056322	EFT:	1,617.84
						VENDOR TOTAL *	.00	1,617.84

VEND NO	SEQ#	VENDOR NAME		BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO		NO	NO						AMOUNT
0000482	00						EFT/EPAY TOTAL ***		1,388,850.96
							TOTAL EXPENDITURES ****	804,670.85	1,388,850.96
						GRAND TOTAL *****			2,193,521.81

April 26 2021

Al Sawtell  
chairman Fremont Public Works Board

Gentlemen,

Deterioration of my health and mobility will prevent me from continuing to serve on ~~the~~ for Fremont Public Works. Therefore, I resign my role on the committee.

Respectfully,

David Shuler



## STAFF REPORT

TO: Utility and Infrastructure Board  
FROM: Lottie Mitchell, Executive Assistant  
DATE: May 11, 2021  
SUBJECT: Questline Newsletter Renewal

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**Recommendation:** Recommend City Council approve resolution.

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**Background:** The Department of Utilities has utilized Questline's services for newsletter services since 2015.

There are two electronic newsletters that are sent monthly. One is for residential accounts and one is for large customer, commercial accounts (key accounts). Questline designs the electronic newsletters. The Department of Utilities approves the content, then Questline emails the electronic newsletters to the email distribution lists that the Utility manages.

The utility bill insert is sent every other month. There is only one insert for all bills, regardless of type of account. Questline designs the bill insert, the utility approves the insert, then Questline sends an electronic file to the Department of Utilities to have printed.

The Utilities obtained quotes for the printing of the bi-monthly newsletter and has selected CSI Printing for a cost of \$1,026.30 per issue.

The Questline proposals for the electronic residential newsletter, the electronic key accounts newsletter, and the utility bill insert are included in the packet. The terms of the agreements cover a two-year period with automatic renewal for an additional 12 months after the second year. At the end of the two-year period, the price will increase by 7% for the year. By executing the agreement, we lock in the below subscription fees for two years.

Questline's annual subscription fees are as follows:

- Residential Newsletter      \$4,357.33
- Key Accounts Newsletter    \$3,352.65
- Utility Bill Insert              \$7,989.60

Total \$15,699.58

Questline is a sole source provider.

**Fiscal Impact:** \$15,699.58 annually for two years, then \$16,798.55 the third year.



## STATEMENT OF WORK

**SOLUTION:**  
**PREPARED FOR:**  
**DATE:**

**City of Fremont - Residential eNewsletter 2021/22**  
**City of Fremont**  
**5/6/2021**

**5500 Frantz Rd Suite 150**  
**Dublin, OH**  
**sales@questline.com**  
**(614) 376-0554**





## THE QUESTLINE SOLUTION

Questline is a content marketing partner dedicated solely to the energy utility industry. Our mission is to provide effective content marketing solutions to energy utilities who want to build long-term relationships with their customers, increase program participation, drive customer engagement and grow customer satisfaction.

We are innovators, creators and problem-solvers for over 480 energy utilities across all 50 states. Questline's solutions are built around a data- and research-driven content marketing strategy, custom creative campaigns, a deep content catalog, and an easy-to-use content marketing platform.

## THE OPPORTUNITY

City of Fremont and its member systems are committed to building and retaining relationships with their key business members, partners, and stakeholders while maximizing interaction and connection. Recognizing that a cornerstone in establishing trust and long-term member satisfaction is the provision of consistent, targeted and engaging content, City of Fremont is seeking to maintain a solution that continues to:

- # Cut through typical “inbox noise” with attention-grabbing content
- # Provide powerful editorial and images delivered to your business members
- # Minimize the commitment of internal resources as an off-the-shelf solution
- # Tap into best practices for targeted engagement
- # Offer options to customize content as needed to account for special programs
- # Provide powerful editorial assets with accompanying images delivered flexibly via HTML download or mobile-friendly “sites” landing pages.
- # Minimize internal resources by tapping into Questline’s database of professionally-produced, engaging business content on demand; selecting topics that best suit your audiences’ needs and your local energy efficiency goals.
  - Provide compelling, engaging content-marketing assets available for use in any communication channel including websites, social media, blogs, email communication and print.

## SCOPE OF WORK

Questline will partner with City of Fremont to deliver the following products and services:

ID#	PRODUCT/SERVICE	TYPE	START	END	QTY
TECH01-SUB	Engage Access	Subscription	5/1/2021	4/30/2022	1.00





ID#	PRODUCT/SERVICE	TYPE	START	END	QTY
<p>Engage is Questline's industry-leading content marketing platform required for all Questline services. With Engage Access, you will receive:</p> <ul style="list-style-type: none"> <li>- An instance of Engage provisioned and branded for your utility</li> <li>- Access to Questline's Content Catalog to discover new assets and, with the purchase of Content Credits, publish them across various utility channels</li> <li>- Access to manage all self-serve digital campaign deployments</li> <li>- Access to Questline online technical support &amp; up to 12 support tickets per year</li> <li>- Real-time tracking and analytics across applicable services via self-serve Engage Reporting</li> </ul>					
DEPL01-SUB	Email Sends	Subscription	5/1/2021	4/30/2022	100,000
Individual email messages sent, whether delivered or undelivered. When purchased as a subscription, all Email Sends must be used within the contract term and will not carry over year to year.					
NEWS01-SUB	Monthly Residential Newsletter Content	Subscription	5/1/2021	4/30/2022	1.00
<p>Includes content assets published monthly by Questline content experts and the licensed use of a pre-built, mobile-optimized newsletter template.</p> <ul style="list-style-type: none"> <li>- 48 content assets developed and curated into monthly drafts of 4 pieces of content targeted to the residential audience</li> <li>- client may substitute other Questline Content Catalog assets via Engage</li> <li>- use of a pre-built template for the newsletter chosen from Engage template library</li> <li>- email template and landing pages branded with the utility brand</li> <li>- template customization is available for additional cost</li> </ul>					
NEWS50-OTM	Newsletter Campaign Implementation	One-time			1.00
<p>As part of the implementation Questline will personalize the copy of the chosen Newsletter template. Personalization includes:</p> <ul style="list-style-type: none"> <li>-the renaming of placeholders such as My Account to utility specifics</li> <li>-inserting information such as phone numbers and links</li> <li>-other changes or customizations will be scoped as Custom Creative project(s)</li> </ul> <p>A standard data integration, for list management, either via FTP or the API is also part of the implementation.</p>					
NEWS02-SUB	Monthly Residential Newsletter Program	Subscription	5/1/2021	4/30/2022	1.00
<p>Publication, draft review/approval, scheduled deployment or download, and engagement reporting for monthly newsletter program. This monthly process begins with a curated draft published by Questline content experts, typically 2 months in advance of deployment. Client will then have the option to review, request changes, and approve the newsletter draft for deployment.</p> <ul style="list-style-type: none"> <li>- Automated notification of draft publication to client-designated contacts</li> <li>- Newsletter content change requests to be submitted by Client via the Engage interface</li> <li>- 1 hour of Questline content editing per monthly issue</li> <li>- Up to 1 client-provided content asset can be added to the Newsletter per issue. This must be submitted in the proper format as outline in the Engage Help Portal</li> <li>- Additional customization of Newsletter content available at an additional fee</li> <li>- Automated reporting snapshot sent to client-designated contacts one week after the Newsletter is deployed</li> <li>- Newsletter campaign engagement reporting provided via Engage interface</li> </ul>					





ID#	PRODUCT/SERVICE	TYPE	START	END	QTY
<ul style="list-style-type: none"><li>- Newsletter product onboarding training included in Program for new Clients</li><li>- Hosting, monitoring, and scheduled deployment or download via Engage are included</li><li>- The Program does not include Email Send fees</li></ul>					
<b>DISCOUNT:</b>					\$13,062.68
<b>Total:</b>					\$4,357.33

## PRICING SUMMARY

PRODUCT/SERVICE	FEE
Subscription	\$4,357.33
One-time	\$0.00
<b>DISCOUNT:</b>	\$13,062.68
<b>Total:</b>	\$4,357.33

Note: All quoted pricing valid through 4/30/2021.

## SCHEDULE OF FEES

### CURRENT SCHEDULE OF FEES FOR WORK PERFORMED OR FOR LICENSING OR SUBSCRIPTION OF QUESTLINE LICENSED ASSETS

**Subscriptions.** Questline will provide any Subscription products and services as described above for the duration of the Subscription Term. Client shall pay the full amount of the Subscription Fee – regardless of Client's use (full, partial, etc.) of the services and deliverables of the Solution or Line Items.

Client will be invoiced 30 days in advance of the initial service date for any Subscription Fees which is immediately due and payable.

**Renewal.** After the initial 24-month Subscription Term, the Agreement will automatically renew for an additional 12 month Subscription Term 30 days prior to its expiration, unless either party gives the other party written notice 45 days prior to the end of the Subscription Term that they will not be renewing the Subscription. The Renewal Subscription Fee will increase annually by 7% year over year. Any such increases shall appear on Client's invoices issued pursuant to the Agreement.





## QUESTLINE LEGAL TERMS & CONDITIONS.

### Section 1. TERM

This Agreement will become effective on the date first shown above and will continue in effect through the completion of the custom work or services set forth herein, or the expiration of the Questline Asset License (as described in Section 4 hereof).

**Termination.** This Agreement may be terminated by Questline upon occurrence of any of the following, without prior notice or legal action by Questline: breach of this Agreement, any Statement of Work, or any other Policies and Procedures of Questline by Client, including, without limitation, nonpayment or untimely payment of any fees due to Questline and any violation of the Questline's Asset License; Client's insolvency, liquidation, or assignment of its stock, assets or business for the benefit of creditors, or upon appointment of a trustee or receiver to administer or conduct Client's business affairs, or upon Client's declaration of bankruptcy, without prior notice or legal action by Questline.

**Survival.** In the event of any termination of this Agreement, Sections 5, 6, 7, 8 and 11 hereof shall survive and continue in effect.

### Section 2. INDEPENDENT CONTRACTOR STATUS

**Intention of Parties.** It is the intention of the parties that Questline is an independent contractor and not an employee, agent, joint venturer, franchise or partner of Client. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Client and either Questline or any employee or agent of Questline or render any party liable for any debt or obligation incurred by any other party hereto. No Party is authorized to enter into agreements for or on behalf of any other Party hereto, to collect any obligation due or owed to any such party, or to bind any other party in any manner unless otherwise agreed in writing by the Parties.

**Non-exclusive.** Questline shall retain the right to perform work for others during the terms of this Agreement. Client shall retain the right to cause work of the same or a different kind to be performed by its own personnel or other contractors during the term of this Agreement.

### Section 3. CUSTOM SERVICES OR WORK PERFORMED BY QUESTLINE

**Performance by Questline.** Questline agrees to use all commercially reasonable efforts to perform the services and provide the work set forth herein by the specified delivery dates and in strict accordance with the requirements and specifications set forth in the Statement of Work. Questline agrees to commit sufficient resources and qualified personnel for the timely and satisfactory completion of the work. Questline agrees to participate in periodic status meetings and, as reasonably requested by Client, provide written status reports to Client concerning Questline's progress in performing the work. Questline agrees to notify Client of any act, event or circumstance that is likely to cause a material delay in completion of the work or attainment of scheduled milestones.

**Method of Performing Services.** Questline, will solely determine the method, details, and means of performing the work to be carried out for Client.





Reporting. Client will advise Questline of the designated Client representatives to whom Questline's representative(s) will report progress on work. Client and Questline shall develop appropriate administrative procedures for performance of work that is required to be performed at Client's site.

#### **Section 4. QUESTLINE ASSET LICENSE**

4.1 Licensed Assets. Some of the work or services to be provided by Questline to Client pursuant to a Statement of Work may require the use of various Licensed Assets of Questline, including without limitation, Questline owned content assets, including, for example, Questline's Engage Platform Assets, Engage Content Assets, Catalogue of Content Assets, eLibrary, and all foreign, federal, state and common law trademarks, service marks, domain names, Internet path names and addresses of whatsoever nature, trade dress, copyrights, know-how, show-how, patents, Inventions (whether or not patentable), mask works, software, proprietary data, customer lists, strategic plans, financial data, trade secrets, all other intangible assets of whatsoever nature and all applications for registration and/or issuance with respect to all the foregoing and whether or not any of the foregoing is registerable or patentable, including, without limitation, with respect to all of the foregoing: (a) all goodwill associated with any and all of the foregoing; (b) all parents, continuations, continuations in part, divisionals, reissues and extensions; and (c) all moral rights associated with any and all of the foregoing ("Questline Intellectual Property") (collectively, ("Questline Licensed Assets")). In the event Questline will use any of the Questline Licensed Assets to deliver any work or services for Client, the use of the Questline Licensed Assets is subject to the terms and conditions of the Questline Asset License set forth herein. Client agrees to abide by all terms and conditions of the Questline Asset License herein. If Client desires to create derivative works from the Questline Licensed Assets, Client must receive written consent from Questline.

Questline's Engage Platform and the corresponding access to content, content features and expanded content functionality that the Engage Platform provides is not included with Questline's Licensed Assets. Client is required to have a separate subscription to the Engage Platform for these functions.

Questline hereby grants to Client, subject to the terms, conditions, and restrictions contained herein a non-exclusive, revocable and worldwide right, license and privilege to (a) utilize the Questline Licensed Assets worldwide solely in connection with Client's business activities, and (b) reproduce, duplicate, or distribute the Questline Licensed Assets, solely in connection with Client's business activities.

The License granted herein may only be used by Client for the purposes(s) identified herein or as set forth in the Parties' Statement of Work(s) during the Term. Client shall not use any Questline Licensed Assets for any purpose, activity or service inconsistent with this Agreement without the express written authorization of Questline.

4.2 Quality Control. Client shall ensure that the goods or services it provides arising out of, reliant upon, or deriving from the Questline Licensed Assets shall be provided substantially in accordance with the quality standards of Client currently in place, or with such other quality standards as Questline reasonably shall establish from time to time. Questline shall not require Client to follow quality control standards or usage guidelines for the Questline Licensed Assets that are substantially different from those that Questline imposes on other Clients generally, or taking into account any relevant differences in their respective markets or products.

4.3 Limitations on Use of Licensed Trademarks. In the event of Client's use of the Questline's trademarks ("Licensed Trademarks") as included in the Questline Licensed Assets, Client shall faithfully reproduce the Licensed Trademarks' design, coloration and appearance in accordance with Questline's use of the marks and/or as instructed by Questline. Questline may modify such designs, coloration and appearance of its marks from time to time in its sole discretion. Client shall not modify the Licensed Trademarks in their design, coloration or appearance unless requested to do so by Questline. All displays of a Licensed Trademark by Client shall bear such trademark, service mark and







other notices as Questline shall require in its sole discretion, and Client shall adhere to any other reasonable and customary posting requirements developed by Questline with respect to the Licensed Trademarks. Client shall not: use a Licensed Trademark as part of, or in conjunction with, any other names or marks, use any marks, terms, designs or designations confusingly similar or diluting to the Licensed Trademarks, or register or attempt to register or assist any unauthorized third party in registration of or attempt to register any such confusingly similar or diluting mark, term, design or designation, without Questline's prior written approval. Client shall not use a Licensed Trademark in any manner that will indicate that it is using such Licensed Trademark other than as a Client.

4.4 Adoption and Notice of New Trademarks. Questline and Client must mutually agree, in advance, upon the Client's adoption of a new tradename or trademark to be used to identify or in connection with the Questline Licensed Assets, such as in the case of the Client's desire to provide or distribute the Questline Licensed Assets in a "white label" arrangement with Client's clients or customers ("White Label Trademarking"). In the event of the Parties' mutual agreement as to Client's adoption of White Label Trademarking, Client shall refrain from the adoption or use of any brand name, legend, symbol, design mark, trade name, or trademark that will cause disparagement or reputational harm to Questline or the Questline Licensed Assets, or that infringes upon the trademark or intellectual property rights of any third party.

4.5 Intellectual Property Notices and Markings. Client agrees that it shall take commercially reasonable measures to cause to appear on all materials on or in connection with which the Licensed Trademarks (including website pages) such legends, markings and notices as Questline may reasonably request in order to give any appropriate notice of Questline's copyright and trademark rights in the Questline Licensed Assets. Client shall accurately produce and reproduce all Questline intellectual property notices on all copies of products or materials Client produces or reproduces of the Questline Licensed Assets. In no event may Client remove any Questline intellectual property notices from any products or materials without the written advance approval of Questline. In the event of a White Label Trademarking arrangement, the Parties may mutually agree, upon Client's request, upon a modified intellectual property notice that reflects Client's status as a licensee of the Questline Licensed Assets.

4.6 Inspection of Samples. Questline shall have the right, upon reasonable and prior notice to Client, to inspect all products and materials of Client and any sub-licensee that bear a Licensed Trademark or use the Questline Licensed Assets for the purpose of determining whether they have met or are meeting the quality standards required under this Agreement. Client shall promptly produce and deliver to Questline such examples of its use of the Licensed Trademarks or Questline Licensed Assets as Questline reasonably requests.

4.7 Limitations on Use of Questline Licensed Assets. Client shall use, reproduce, distribute, perform, display or sublicense the Questline Licensed Assets solely in connection with Client's business activities, as defined in the Statement of Work between the Parties, and further subject to the specific use limitations set forth in this Section 4.7 (herein "Use Limitations"), for the limited Term of this License, defined herein in Section 4.18. Client shall not, without the express authorization of Questline, use the Questline Licensed Assets in any manner inconsistent with or that will harm, dilute, diminish or cause loss or diminution of value of Questline's rights in such.

4.8 Prohibited Modifications to Questline Licensed Assets. Client shall not modify, alter, derive from, add to, distribute, or otherwise change the Questline Licensed Assets, or any information contained therein, in any manner that creates, or potentially creates, a misrepresentation, false claim, or false perception of any third party.

Client shall not change or modify any videos subject to this Asset License.

Client shall indemnify and hold Questline harmless for any claims or liability related to any alleged misrepresentations, false claims, or false perceptions, pursuant to the provisions set forth in Section 4.16 herein.







4.9 Exclusions from Questline Licensed Assets. All third-party intellectual property incorporated into any of the Questline Licensed Assets, including, without limitation, any photographic images or video footage, any computer programs, any graphics or artwork, or any text copy, obtained by Questline from a third party, are subject to the legal limitations on Questline pursuant to Questline's contracts or licenses with the third-party owners thereof, or are excluded from this Questline Asset License. Such limitations may include a prohibition of use, prohibition of duplication or transmittal, or prohibition of creation of derivative works based upon such third-party intellectual property. Questline will, where possible, make reasonable efforts to advise Client of any third-party intellectual property subject to such limitations.

4.10 Ownership. Client acknowledges that Questline is the sole and exclusive owner of the Questline Licensed Assets, including all derivative works created by Client from the Questline Licensed Assets. Client agrees that it has no right, title or interest in or to any Questline Licensed Assets, including any derivative works created therefrom, except as a Client pursuant to the terms of this License. Client agrees that all uses of any Questline Licensed Assets by Client and the goodwill associated with such uses shall inure solely to the benefit of Questline. Upon termination of Client's right to use any Questline Licensed Assets as provided in this License, all right and interest of Client in and to such Questline Licensed Assets, including any derivative works derived from or containing any Questline Licensed Assets, shall revert fully to Questline. Client agrees, if requested by Questline, to cooperate fully with Questline by executing and recording appropriate documents evidencing Questline's ownership of the Questline Licensed Assets. Client agrees to take no action inconsistent with Questline's ownership of and interest in its Questline Licensed Assets or any of the terms of this License, or assist any third party in doing any of the same.

4.11 Maintenance; Prosecution and Legal Action. Questline shall maintain sole control and discretion of and regarding the prosecution and maintenance of the Questline Licensed Assets, including all registrations and legal actions required to maintain and enforce the Questline Licensed Assets.

4.12 Policing. The Parties shall cooperate to diligently police the Questline Licensed Assets. Client shall promptly notify Questline in writing of any unauthorized use, infringement, misappropriation, dilution or other violation of the Questline Licensed Assets of which it becomes aware. Client must retain all tracking code information provided by Questline as it places licensed material into Commercial Use.

4.13 Protection of Rights in Questline Licensed Assets. Client will not undertake any action that shall in any manner reduce, diminish, or jeopardize the effect and enforceability of the Questline Licensed Assets.

Client shall provide Questline with prompt written notice of any unauthorized uses by third parties of the Questline Licensed Assets. Questline shall have the primary right, which it may exercise in its sole discretion, to bring and control any suits or legal proceedings against any unauthorized use, infringement, misappropriation, dilution or other violation of the Questline Licensed Assets. Questline shall be entitled to retain the entirety of any monetary award arising from such suit or legal proceeding. Client shall cooperate with Questline in any litigation, legal proceeding, or enforcement action that Questline undertakes to enforce or protect the Questline Licensed Assets, including upon Questline's request the execution, filing or delivery of all documents or proof necessary for such purpose, including being named as a party to such suit, legal proceeding, or enforcement action. Client may participate and be represented in any such suit, proceeding or action brought by Questline by Client's legal counsel, at Client's sole expense.

Client shall have no claim whatsoever against Questline based upon or arising out of Questline's handling of or decisions regarding any suit, legal proceeding or enforcement action, or the settling, compromising or disposal thereof, regarding the Questline Licensed Assets. Client irrevocably releases and holds harmless Questline from any such claims.





Each Party shall bear its own costs, fees and expenses incurred or associated with any suit, legal proceeding, or enforcement action brought pursuant to Sections 4.10-4.13 herein.

## **Section 5. COMPENSATION**

**Fees.** Questline reserves the right to change such fee schedule for any work, service, subscription or license upon at least sixty (60) days' advance notice to Client. In the event the parties enter into a new Statement of Work or modify a portion of this Statement of Work, Questline reserves the right to change its current fee schedule without advance notice to Client.

**Lapsed Term.** If the Subscription Fee and the Subscription Term has lapsed and Client is on a Month to Month Subscription, the Monthly Subscription Fee shall be at the rate of one twelfth (1/12) the Annual Subscription Fee plus a twenty percent (20%) monthly premium.

**Estimated Fees.** Estimates are not guaranteed by Questline, but rather represent Questline's best estimate of the total fees for the work or services described. Questline will notify Client as soon as possible if the estimated fee will be exceeded, and Client may then request modification of the remaining identified and unperformed work or services to comport with the originally estimated fees.

**Invoices.** Questline shall submit invoices to Client for the work or services furnished, subscription or license fees for Questline Licensed Assets, and other expenses incurred hereunder based on the milestone payment schedule set forth herein, or, if no milestone payment schedule is set forth, in monthly intervals. Each invoice will provide a breakdown and distribution of charges.

**Date for Payment of Compensation.** Client shall pay each invoice in full within fortyfive (45) days after receipt. All past due invoices will be subject to a late payment fee and additional costs, as provided herein.

**Expenses.** Questline is entitled to reimbursement of expenses, limited to the actual costs Questline pays (net of all related discounts, rebates, commissions, allowances, write-downs and similar consideration or adjustments paid or allowed by the subcontractors) for non-labor expenses, including raw materials, travel and living costs for site visits to Client or other locations requested by Client, third-party software and equipment that Questline is required to procure in order to perform services for Client, and any other expenses identified as reimbursable in the terms of the applicable Statement of Work.

**Taxes.** Client shall be responsible for sales, use, excise and similar taxes due for the work, services, deliverables or any payments for the same. Questline's price(s) and any Billing Rates that apply under the Agreement exclude any and all present and future Federal, state, county, municipal, or other jurisdiction's sales, use, excise or other taxes that may apply to Client's purchase of the Work. For a period of three (3) years following completion of the Work, Client shall pay to Questline any such taxes that Questline is obligated by law to collect from Client for Work accepted and purchased by Client, provided Questline submits written notice to the Client within fourteen (14) days of Questline's receipt of notification of any imposition of such taxes. Client may direct Questline to withhold payment and elect to contest the amount or validity of any such tax imposition. Questline shall fully cooperate with Client in any such tax contest. Client shall reimburse Questline for any interest or penalties actually paid by Questline as a result of Client's exercise of its right to contest the imposition of any taxes.

**Records and Documentation.** Questline shall maintain account records and documentation to support all charges billed to Client. Upon receipt of reasonable notice and assurance of confidentiality, Questline shall provide to Client documentation of any charges or expenses billed to Client for review.





Late Payment Penalties and Costs of Collection. In the event Client fails to pay Questline any fee or expense in a timely manner as set forth herein, Client shall be liable to Questline for interest, billed at the rate of 1.5% per month for any balance unpaid as of the 16th day after delivery of an Invoice from Questline, and for any costs incurred by Questline, including Questline's attorneys fees, in the collection or recovery of any unpaid Client fees or costs.

Credits. Some Questline Content Products may be purchased as Content Credits. Client is able to draw against those Credits as individual initiatives unfold. However, all Credits purchased must be used in the contract year purchased and shall not be carried over year to year. Credits purchased cannot be withdrawn, transferred, refunded or shared in any way. Customers cannot receive a refund for any Credits. Customers will not be reimbursed for Credits purchased. Furthermore, Credits cannot be translated into money or anything of monetary value; any such attempt will be null and void. After one year, all Credits become null and void.

Unused Credits. During the contract the Client may be able to reallocate Credits to a different product(s) and/or service(s) mix than those originally contracted when the following is true: 1) Credits were not based on a subscription product or service, and 2) Unused Credits were based on product(s) and/or service(s) that were not used or delivered.

## **Section 6. CONFIDENTIALITY; INTELLECTUAL PROPERTY OWNERSHIP**

Confidentiality. The Parties shall maintain in strict confidence and shall use and disclose only as authorized by the Parties all information of a competitively sensitive or proprietary nature that either party receives in connection with the work performed for Client pursuant to each Statement of Work. The Parties shall require their respective personnel to agree to do likewise. The Parties shall take reasonable steps to identify for the benefit of the other party and its personnel any information of a competitively sensitive or proprietary nature, using means including confidentiality notices in written material where appropriate. These restrictions shall not be construed to apply to (1) information generally available to the public; (2) information released by the Parties generally without restriction; (3) information independently developed or acquired without reliance in any way on other protected information of the other party, or (4) information approved for the use and disclosure by the Parties or their personnel without restriction. Notwithstanding the foregoing restrictions, the Parties and their personnel may use and disclose any confidential information (a) to the extent required by an order of any court or other governmental authority, or (b) as necessary for it or them to protect their interest in this Agreement, but in each case only after the other party has been so notified and has had the opportunity, if possible, to obtain a protective order for such information or other appropriate remedy in connection with such disclosure. In the event that such protective order or other remedy is not obtained, or the other Party approves the disclosure, the disclosing Party agrees to furnish only that portion of the Confidential Information that the disclosing Party in good faith believes is legally required and shall exercise reasonable efforts to obtain assurance that confidential treatment shall be accorded of such information.

Each Party shall cease use of all Confidential Information that any Party has obtained from the other upon the expiration or earlier termination of this Agreement.

### **Intellectual Property Rights in Custom Work Product**

Subject to Questline's receiving full payment under this Agreement, Questline assigns to the Client, without representation or warranty, all rights, title and interest Questline may have in any work product specifically created by Questline for the Client pursuant to this Agreement (herein "Custom Work Product"), except that:

(a) Questline may display, use and distribute such Custom Work Product as part of its portfolio for promotional purposes;





(b) Questline shall own and retain all rights to any and all concepts, ideas, designs, proposals and other work and materials (collectively, "Work") which have been presented to the Client but either rejected by the Client, or otherwise not included in the final work product;

(c) Questline shall own and retain all rights, including all copyrights, trademarks, patents, trade secrets, moral rights, mask work rights, and all other intellectual property rights in any of its technology, technical documentation, computer programs, inventions, algorithms, software, architecture, modeling files, animation files, source or object code or files, schematics, wireframes, graphics, or other files or features incorporated into or utilized in or by the Custom Work Product (collectively herein "Background Technology"). Questline grants to Client a nonexclusive, non-transferrable, prepaid, worldwide license to use, reproduce, distribute, display, and perform Questline's Background Technology in compiled machine readable object code form only, and only to the extent such Background Technology is incorporated into Custom Work Product delivered by Questline pursuant to this Agreement, and for the purposes and in the locations or territories contemplated by this Agreement or any incorporated Statement of Work or Proposal. Such license shall be revocable by Questline in the event of the breach by Client of any obligation or term of this Agreement, including without limitation the failure to timely pay any fees due to Questline or use of the Background Technology for any reason or by any party not set forth in this Agreement, and is revoked by Questline upon the conclusion or termination of this Agreement for any reason;

(d) Unless the parties agree otherwise and in writing, Questline shall own and retain all rights, including all copyrights, trademarks, patents, trade secrets, moral rights, mask work rights, and all other intellectual property rights, in any of its additional pre-existing creative works (herein "Questline Pre-Existing Works") that do not constitute either Background Technology or Questline Licensed Assets. To the extent any Questline Pre-Existing Work(s) is or are incorporated into the Custom Work Product, Questline grants to Client a nonexclusive, non-transferrable, prepaid, worldwide license to use, reproduce, distribute, display, or perform such Questline Pre-Existing Work(s) for the purposes contemplated by this Agreement. Such license shall be revocable by Questline in the event of the breach by Client of any obligation or term of this Agreement, including without limitation the failure to timely pay any fees due to Questline; and

(e) Questline shall own and retain all rights in all Questline Licensed Assets, pursuant to the terms and conditions of the Questline Asset License as provided in Section 4 of this Agreement.

Questline Right of First Refusal – Rejected, Unused or Unimplemented Custom Work Product. In the event Client desires to utilize any of the rejected, unused, or conceptual but unimplemented Custom Work Product for any marketing campaign, promotion, product, service, advertisement or any other purpose outside the scope of this Agreement, then the Client shall provide Questline with the first right of refusal to design, create, develop, market and otherwise implement such rejected, unused or conceptual but unimplemented Custom Work Product. In the event Questline declines the additional opportunity, Questline, in its sole discretion, may (but shall not be required to) agree to license or transfer the rejected, unused or conceptual but unimplemented Custom Work Product to Client upon terms mutually agreed upon by the parties for implementation by a third party of Client's selection.

Third-Party Intellectual Property and Releases. In the event Questline must use Intellectual Property owned or otherwise required to be obtained from third-party owner, licensor or vendor (herein "Third-Party Intellectual Property") to incorporate into, or used or delivered with, the Custom Work Product, then the Statement of Work shall so specify. Further in such event, the Statement of Work shall indicate whether it is the responsibility of either Questline or Client to obtain or provide the rights or license to use or incorporate the Third-Party Intellectual Property. Unless otherwise specified in a Statement of Work, Questline shall have no responsibility for determining whether Third-Party Intellectual Property is free of possible infringement or violation of the intellectual property rights of any other party.





Questline Disclaimer of Intellectual Property Non-Infringement. Questline disclaims any express or implied warranty that the Custom Work Product or any Questline Licensed Asset is free from infringement upon the Intellectual Property Rights of any person or entity.

#### **Section 7. NONSOLICITATION-NONINTERFERENCE WITH QUESTLINE PERSONNEL**

Acknowledgement of Potential Harm to Questline. Client acknowledges that Questline provides a valuable service by identifying and assigning qualified personnel for Client's work. Client further acknowledges that Client would receive substantial additional value, and Questline would be deprived of the benefits of its work force, if Client were to directly solicit for hire, interfere with Questline's employment relationship with, or hire Questline's personnel after they have been introduced to Client by Questline. Client further acknowledges that its solicitation for hire, interference with an employment relationship with, or hiring of any personnel of Questline would cause irreparable harm to Questline, for which irreparable harm money damages may be inadequate.

Covenant of Nonsolicitation, Noninterference or Nonemployment of Questline Personnel. In consideration of Client's acknowledgements set forth in Section 7.1 herein, Client shall not, without the prior written consent of Questline, recruit, solicit for hire, interfere with the employment of, or hire any personnel of Questline for a period of one (1) year after the completion of all work, services, or license or subscription terms in effect between the parties.

Liquidated Damages to Questline for Breach. In the event that Client hires any personnel of Questline within one (1) year of the completion of all work, services, or license or subscription terms in effect between the parties, Client shall, at the election of Questline (in Questline's sole discretion) to pursue monetary compensation in lieu of other legal or equitable remedies, pay to Questline an amount equal to twenty-five percent (25%) of the total first year compensation Client pays such personnel as liquidated damages for the Client's failure to comply with the covenant of nonsolicitation. The liquidated damages are a reasonable estimate (as of the date this Agreement is entered into) of the foreseeable damages Questline will incur as a result of a breach of the Covenant of Nonsolicitation

#### **Section 8. WARRANTIES; LIMITATIONS**

Questline Warranties. (a) Questline represents, warrants and covenants that its work and services will be performed in a good and workmanlike manner. (b) its Work Product as delivered to Client will be free of Harmful Code. For this purpose, "Harmful Code" means any software or other materials that are intentionally designed to surreptitiously disrupt, disable, harm, or impede operations, or surreptitiously impair operation based on the lapse of time, including viruses, worms, time bombs, time locks, drop-dead devices, access codes, undisclosed security keys, undisclosed back doors, or trap door devices. However, intentional design constraints, security controls, and authorization or expiration features that are disclosed to Client or otherwise obvious in the operation of particular deliverables are not considered "Harmful Code" and are excluded from this Warranty. (c) its Work Product will not contain or require the use of Open Source Technology except as specified herein. For this purpose, "Open Source Technology" means software licensed under terms that require as a condition of the use, modification or distribution thereof that other software incorporated into, derived from, or distributed with such software (i) be disclosed or distributed in source code form, or (ii) be licensed under terms that permit making derivative works, or (iii) be redistributable at no charge to subsequent licensees.

Client Warranties. Client represents, warrants, and covenants that: (1) Client has the legal right and authority to enter into this Agreement; (2) Client has the legal right and authority to perform its obligations under this Agreement and to grant the rights and licenses described in this Agreement and in any applicable additional agreement Client enter into in connection with any of the services provided under this Agreement; (3) Client will provide all information, data and approvals required by Questline to perform Questline's work pursuant to this Agreement in a timely, accurate and complete manner. (3) All information, content, data and claims provided by Client to Questline are free from any misrepresentations, false







statements, or known infringements upon the rights of any third party; and (4) Client will access and use all Custom Work Product, services provided under this Agreement, and Questline Licensed Assets in full compliance with the terms of this Agreement and for the purposes contemplated by the parties in this Agreement.

**DISCLAIMER OF WARRANTIES BY QUESTLINE.** EXCEPT AS PROVIDED IN THIS SECTION 8, QUESTLINE AND ITS AFFILIATES, AGENTS AND SUBCONTRACTORS DO NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED BY ITS PERSONNEL OR THE RESULTS OBTAINED FROM THEIR WORK, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. QUESTLINE FURTHER DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF EFFECTIVENESS, SPECIFIC RESULTS, OR SPECIFIC QUALITY OR QUANTITY OF RETURN OR RESPONSE RELATED TO THE WORK OR SERVICES IT PROVIDES TO CLIENTS, OR ANY RESPONSIBILITY OR LIABILITY FOR TECHNICAL OR SERVICE INTERRUPTIONS, OR ANY THIRD PARTY BREACHES OF ITS TECHNOLOGY, DATA OR SYSTEMS. QUESTLINE'S WORK IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH REGARD TO THE WORK ARE EXPRESSLY EXCLUDED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, LACK OF DEFECT, OR ACCURACY.

**EXCLUSION OF DAMAGES.** IN NO EVENT SHALL QUESTLINE BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, PROFITS, BUSINESS INTERRUPTIONS, DOWNTIME, COST OF COVER, OR LOSS OF INFORMATION, OR FOR ACTS OF NEGLIGENCE, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION DOES NOT LIMIT A PARTY'S LIABILITY FOR BODILY INJURY OF A PERSON, DEATH, OR PHYSICAL DAMAGE TO TANGIBLE PROPERTY.

**LIMITATION ON ACTION.** ANY ACTION AGAINST QUESTLINE ARISING OUT OF, RESULTING FROM, OR RELATED TO THE PERFORMANCE OR BREACH OF THIS AGREEMENT SHALL BE FILED NOT LATER THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED, PROVIDED CLIENT HAS COMPLIED WITH ALL AGREEMENT REQUIREMENTS FOR NOTICE.

**Total Liability.** Client agrees that Questline's liability hereunder for damages, regardless of the form of action, shall not exceed the total amount paid by Client to Questline for services, licenses, or subscriptions pursuant to any Statement of Work to which such claim applies.

**Force Majeure.** Questline shall not be liable to Client for any failure or delay caused by events beyond Questline's control, including, without limitation, Client's failure to furnish necessary information, sabotage, failures or delays in transportation or communication, failure of electrical or communications equipment or services, failures or substitutions of equipment, labor disputes, accidents, shortages of labor, fuel, raw materials, or equipment, or technical failures.

**Data Protection.** Questline and its affiliates, agents and subcontractors shall take reasonable measures to (a) protect Personally Identifiable Information provided to it by Client from loss, theft or unauthorized use or access; (b) ensure that any such Personally Identifiable Information is used only as necessary to perform services pursuant to a Statement of Work, and (c) securely dispose of such Personally Identifiable Information upon termination of this Agreement or any applicable Statement of Work. In the event that Questline or its affiliates, agents or subcontractors become(s) aware of facts or circumstances evidencing the loss, theft or unauthorized access to or use of such Personally Identifiable Information, Questline promptly shall inform Client of such facts and circumstances and shall cooperate in the investigation and remediation of any such event. As used herein, "Personally Identifiable Information" shall mean and include information that alone or in combination with other information provided to Questline by Client is sufficient to





identify a specific individual person but shall not include any information to the extent that it is anonymized or aggregated in a manner that no longer pertains to a specific individual.

**Client Content Protection and Integrity.** Client will be responsible for protection, accuracy and integrity of all data, information and other content ("Content") it provides to Questline in connection with the services provided under this Agreement. Client will not provide, transmit or distribute, and will not permit any third party to provide, transmit or distribute, or to use the services provided under this Agreement to provide, transmit or distribute, any Content that: (a) infringes, misappropriates or violates any intellectual property or other rights of any third-party; (b) is defamatory, harmful to minors, obscene or child pornographic; (c) contains any viruses or programming routines intended to damage the services or any software, hardware or other technology used to provide the services or surreptitiously intercept or expropriate any data or information; or (d) is false, misleading or inaccurate. Questline and its affiliates, agents and contractors will not be responsible or liable for any deletion, correction, destruction, damage, loss or failure to store or back-up any Content. Questline and its affiliates, agents and contractors may take remedial action if any Content violates this Section, however Questline and its affiliates, agents and contractors are under no obligation to review any Content for accuracy or potential liability.

**Client Compliance with Communication Laws.** Client will comply with all relevant communication laws, including but not limited to the Telephone Consumer Protection Act as defined under 47 USC Section 2227, laws governing marketing, and regulations for any self-managed communications Client transmits using the Background Technology or Licensed Assets of Questline, including, without limitation, those related to e-mail, mobile or cellular text messaging, fax messaging, telephonic communications, and any other mode of communication. Client will at all times perform its obligations in a manner that will not cause Questline to be in material violation of any applicable laws or regulations. For purposes of its obligation under this Section, the acts or omissions of Client's employees, agents, representatives, contractors, subcontractors, or affiliates (and such affiliates, employees, agents, representatives, contractors or subcontractors) will also be deemed the acts or omissions of Client. Any costs and expenses associated with a violation of this Section shall be the sole responsibility of Client.

## **Section 9. ASSIGNMENT**

**No Assignment of Agreement.** Except as provided herein, neither Party may assign any of its rights or obligations under this Agreement to any person or entity without the prior written consent of the other Party, which consent shall not be unreasonably withheld; except that in the event of a corporate merger, reorganization, or if an entity acquires all or substantially all of the assets of the business unit of the assigning party connected to this Agreement. Any unauthorized assignment of this Agreement shall be null and void.

**No Third Party Beneficiaries.** This Agreement is for the sole and exclusive benefit of the parties hereto and nothing herein is intended to give or shall be construed to give to any person or entity other than the parties hereto any additional rights or remedies hereunder.

## **Section 10. INSURANCE**

Questline will provide and maintain, in effect during the performance of any Work under this Statement of Work minimum insurance coverage with carriers authorized to conduct business in the State in which the Work is to be done and otherwise satisfactory to Client, including:

- Workers compensation insurance ("WCI") with statutory limits, as required by the state in which the Work is to be performed.





- Employer's liability insurance ("ELI") with limits of not less than one million dollars (\$1,000,000.00) each accident for bodily injury by accident, one million dollars (\$1,000,000) each employee for bodily injury by disease, and one million dollars (\$1,000,000) policy limit.
- Commercial general liability ("CGL") insurance with a limit of not less than one million dollars (\$1,000,000.00) per occurrence and per project or per location aggregate, covering liability for bodily injury and property damage.
- Automobile liability insurance ("ALI") coverage with a limit of not less than one million dollars (\$1,000,000) per accident.
- Excess or Umbrella liability insurance coverage with a limit of not less than four million dollars (\$4,000,000.00) per occurrence and per project or per location aggregate.
- Professional liability insurance ("PLI") with a combined single limit of not less than two million dollars (\$2,000,000.00) per occurrence.
- Cyber Security Insurance with a limit of not less than five million dollars (\$5,000,000) per occurrence and in the aggregate.

Questline will be responsible for any deductibles or self-insured retentions applicable to the insurance provided in compliance with this Section 10.

To the extent permitted by applicable Laws, all above-mentioned insurance policies will comply with the following:

- Be primary and non-contributory to any other insurance afforded to Client;
- Provide for a waiver of all rights of subrogation which Questline's insurance carrier might exercise against Client, excluding PLI; and
- Any Excess or Umbrella liability coverage will not require contribution before it will apply.

## **Section 11. GENERAL PROVISIONS**

**Insurance by Client.** To the extent that Questline's personnel may perform work at Client's premises, Client shall maintain comprehensive general liability insurance, with limits of at least \$1 million combined single limit for personal injury and property damage for each occurrence.

**Indemnification.** (a) Client agrees to indemnify, defend, and hold Questline, its employees, owners, officers, board members, agents, and subcontractors harmless from any and all liabilities, claims, demands, damages, and all costs and expenses, arising out of the performance of the services performed pursuant to this Agreement that are caused, in whole or in part, by Client's negligent or wrongful act or omission or that of anyone employed by Client for whose acts Client may be liable, or that result from the use or misuse of the services performed pursuant to any Statement of Work under this Agreement. (b) Subject to the limitations and exclusions set forth in Section 8 of this Agreement, Questline agrees to indemnify and hold Client harmless from any and all liability, claims, demands, damages, and all costs and expenses in







connection therewith, for or arising out of the performance of Questline's services performed pursuant to this Agreement that are caused, in whole or in part, by Questline's willful misconduct or that of anyone employed by Questline for whose acts Questline may be liable. Client will indemnify and hold Questline harmless for any claims or actions by third parties against Questline, including without limitation those by governmental or regulatory authorities, based upon materials furnished by Client or where material created by Questline is substantially changed by Client, including without limitation any claim for false advertising, libel, slander, piracy, plagiarism, invasion of privacy, or infringement of intellectual property. Information or data obtained by Questline from Client to substantiate claims made in advertising is deemed to be "materials furnished by Client."

**Defense of Claims.** If Questline is alleged to be liable to any third party on account of any event requiring indemnification, Questline shall notify Client thereof and Client shall assume the defense thereof through counsel selected by Client that is acceptable to Questline (which acceptance shall not be unreasonably withheld), and Client shall bear all liabilities, claims, losses, damages, costs and expenses of such defense, including, without limitation, all reasonably incurred attorneys' fees and expenses, court costs, and expert witness or professional fees and expenses, and any resulting settlement, judgment, or award; provided, however, Client will not be liable for any liabilities, claims, losses, damages, costs and expenses that a court of competent jurisdiction shall have found in a final non-appealable judgment to have been primarily caused by the bad faith or willful misconduct of Questline. The failure of Questline to give notice shall not relieve Client of its obligations hereunder except to the extent (if any) that Client has been materially prejudiced thereby. Questline shall have the right to participate in the defense and settlement of any Claims. If, in its reasonable judgment, Questline believes that Client's legal counsel's representation of both Client or another person and Questline would present such legal counsel with a conflict of interest, then Questline may employ separate legal counsel to represent or defend it in any such claim, action, suit or proceeding, at Client's cost and expense. Whether or not Client chooses to defend or prosecute any such Claim, all of the parties hereto shall cooperate in the defense or prosecution thereof. In the event that Client does not elect to assume the defense of any Claim, then Questline's failure to defend itself or to participate in the defense of any such Claim shall not relieve Client of its obligations hereunder.

**Entire Agreement of the Parties.** This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Questline to Client, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this agreement shall be valid or binding. Any modification of this agreement will be effective only if it is in writing signed by the party to be charged.

**Partial Invalidity.** If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way. IF AND TO THE EXTENT ANY WAIVER, EXCLUSION, LIMITATION, INDEMNITY, OR OTHER PROVISION IN THIS AGREEMENT OR FAILS TO COMPLY WITH THE LAW OF THE STATE UNDER WHICH IT IS CONSTRUED DUE TO THE ABSENCE OF CAPITALIZATION OR OTHER GRAPHIC EMPHASIS, EACH PARTY WAIVES OBJECTION TO THE PROVISION ON THAT BASIS TO THE EXTENT PERMITTED BY LAW AND OTHERWISE AGREES TO BE ESTOPPED FROM RAISING SUCH OBJECTION IN ANY JUDICIAL PROCEEDING. IN DOING SO, EACH PARTY ACKNOWLEDGES THAT IT IS A SOPHISTICATED COMMERCIAL PARTY REPRESENTED BY COUNSEL IN CONNECTION WITH THE NEGOTIATION AND EXECUTION OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THIS SECTION.

**Attorneys' Fees.** The prevailing Party shall have the right to collect from the other Party its reasonable costs and attorneys' fees incurred in enforcing this Agreement.





**Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Nebraska without regard to its conflicts of law provisions. The parties agree that the jurisdiction and venue of any action with respect to this Agreement shall be in a court of competent subject matter jurisdiction located in the Dodge County Nebraska or the Federal District of Nebraska. The parties hereby consent to personal jurisdiction and proper venue in the courts of Dodge County Nebraska or the Federal District of Nebraska.

**Compliance with Law.** Questline and Client shall comply with all laws, regulations and requirements applicable to the Work, including, without limitation, international, federal, state and local laws, and the laws applicable to any location where any Work is to be performed. Such compliance shall include, without limitation, environmental, human rights, labor, employment, non-discrimination and anti-corruption laws (including the Foreign Corrupt Practices Act), and all applicable maritime, customs, export, and import laws, requirements, rules and regulations, and the applicable laws, requirements, rules and regulations of the country of origin or destination, any intermediate country, and the United States in the performance of the Work. The country of any location where Work is to be performed, whether it is the country of origin or destination or any intermediate country must be a member of the International Labour Organization (ILO). The Parties agree that in the performance of this Agreement they will not discriminate or permit discrimination against any person or group of persons on the grounds of sex, race, color, religion or natural origin in any manner prohibited by the laws of the United States. The costs of such compliance with the foregoing shall be borne exclusively by Client and Client shall defend, indemnify, and hold Questline harmless from any liabilities, damages, fines, penalties and costs arising from Client's noncompliance with this Section.

**Mediation.** If any controversy or claim arising out of or relating to this Agreement cannot be settled through negotiation between the Parties, the controversy or claim shall be submitted to mediation prior to the filing of any action. The cost of the mediation shall be borne equally between the Parties.

**Cumulative Remedies.** No remedy herein conferred upon or reserved to Questline is intended to be exclusive of any other remedy and each such remedy shall be cumulative, and shall be in addition to every other remedy given under this Agreement, or now or hereafter existing at law or in equity by statute. No delay or omission of Questline to exercise any right, privilege, or power accruing upon any event of default shall impair any such right, privilege, or power, or shall be construed to be a waiver of any such event of default or any acquiescence therein; and every power and remedy given by this Agreement to Questline may be exercised from time to time, as often as may be deemed expedient by Questline.

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**Notices.** All notices that are to be given hereunder by either party to the other may be affected in writing, transmitted by electronic mail, by personal delivery or by U.S. mail, registered or certified, postage prepared with return receipt requested. Mailed notices shall be addressed to the parties at the addresses below, but each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of the date of receipt; mailed notices will be deemed communicated as of three days after mailing, and electronic mail shall be deemed communicated as of the date of electronic receipt thereof.

**For City of Fremont:**

**Name:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Address:** \_\_\_\_\_





**For Questline, Inc.:**

**Name:** Attention: Legal Department **Email:** legal@questline.com  
**Address:** 5500 Frantz Rd. Ste 150  
Dublin, Ohio 43017

**Acceptance and Authorization**

IN WITNESS WHEREOF, and in acknowledgment that the Parties have read, understood, and agreed to the Services, Scope, Project Details, Deliverables, the Fees, Obligations, the Terms and Conditions herein, Questline and Client have caused this Statement of Work to be executed below by their duly authorized representatives.

**City of Fremont**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Name (Print):** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Questline, Inc.**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Name (Print):** \_\_\_\_\_ **Title:** \_\_\_\_\_





## STATEMENT OF WORK

**SOLUTION:**  
**PREPARED FOR:**  
**DATE:**

**Fremont - Managed Accounts eNewsletter 2021/22**  
**City of Fremont**  
**5/6/2021**

**5500 Frantz Rd Suite 150**  
**Dublin, OH**  
**sales@questline.com**  
**(614) 376-0554**





## THE QUESTLINE SOLUTION

Questline is a content marketing partner dedicated solely to the energy utility industry. Our mission is to provide effective content marketing solutions to energy utilities who want to build long-term relationships with their customers, increase program participation, drive customer engagement and grow customer satisfaction.

We are innovators, creators and problem-solvers for over 480 energy utilities across all 50 states. Questline's solutions are built around a data- and research-driven content marketing strategy, custom creative campaigns, a deep content catalog, and an easy-to-use content marketing platform.

## THE OPPORTUNITY

City of Fremont and its member systems are committed to building and retaining relationships with their key business members, partners, and stakeholders while maximizing interaction and connection. Recognizing that a cornerstone in establishing trust and long-term member satisfaction is the provision of consistent, targeted and engaging content, City of Fremont is seeking to maintain a solution that continues to:

#

Cut through typical “inbox noise” with attention-grabbing content

#

Provide powerful editorial and images delivered to your business members

#

Minimize the commitment of internal resources as an off-the-shelf solution

#

Tap into best practices for targeted engagement

#

Offer options to customize content as needed to account for special programs

#

Provide powerful editorial assets with accompanying images delivered flexibly via HTML download or mobile-friendly “sites” landing pages.

#

Minimize internal resources by tapping into Questline’s database of professionally-produced, engaging business content on demand; selecting topics that best suit your audiences’ needs and your local energy efficiency goals.

- Provide compelling, engaging content-marketing assets available for use in any communication channel including websites, social media, blogs, email communication and print.





## SCOPE OF WORK

Questline will partner with City of Fremont to deliver the following products and services:

ID#	PRODUCT/SERVICE	TYPE	START	END	QTY
TECH01-SUB	Engage Access	Subscription	5/1/2021	4/30/2022	1.00
<p>Engage is Questline's industry-leading content marketing platform required for all Questline services. With Engage Access, you will receive:</p> <ul style="list-style-type: none"> <li>- An instance of Engage provisioned and branded for your utility</li> <li>- Access to Questline's Content Catalog to discover new assets and, with the purchase of Content Credits, publish them across various utility channels</li> <li>- Access to manage all self-serve digital campaign deployments</li> <li>- Access to Questline online technical support &amp; up to 12 support tickets per year</li> <li>- Real-time tracking and analytics across applicable services via self-serve Engage Reporting</li> </ul>					
DEPL01-SUB	Email Sends	Subscription	5/1/2021	4/30/2022	100,000
Individual email messages sent, whether delivered or undelivered. When purchased as a subscription, all Email Sends must be used within the contract term and will not carry over year to year.					
NEWS20-SUB	Monthly Key Accounts Newsletter Content	Subscription	5/1/2021	4/30/2022	1.00
<p>Includes content assets published monthly by Questline content experts and the licensed use of a pre-built, mobile-optimized newsletter template.</p> <ul style="list-style-type: none"> <li>- 48 content assets developed and curated into monthly drafts of 4 pieces of content targeted to a large key account business audience</li> <li>- client may substitute other Questline Content Catalog assets via Engage</li> <li>- use of a pre-built template for the newsletter chosen from Engage template library</li> <li>- email template and landing pages branded with the utility brand</li> <li>- template customization is available for additional cost</li> </ul>					
NEWS50-OTM	Newsletter Campaign Implementation	One-time			1.00
<p>As part of the implementation Questline will personalize the copy of the chosen Newsletter template. Personalization includes:</p> <ul style="list-style-type: none"> <li>-the renaming of placeholders such as My Account to utility specifics</li> <li>-inserting information such as phone numbers and links</li> <li>-other changes or customizations will be scoped as Custom Creative project(s)</li> </ul> <p>A standard data integration, for list management, either via FTP or the API is also part of the implementation.</p>					
NEWS21-SUB	Monthly Key Accounts Newsletter Program	Subscription	5/1/2021	4/30/2022	1.00
Publication, draft review/approval, scheduled deployment or download, and engagement reporting for monthly newsletter program. This monthly process begins with a curated draft published by Questline content experts, typically					





ID#	PRODUCT/SERVICE	TYPE	START	END	QTY
2 months in advance of deployment. Client will then have the option to review, request changes, and approve the newsletter draft for deployment. - Automated notification of draft publication to client-designated contacts - Newsletter content change requests to be submitted by Client via the Engage interface - 1 hour of Questline content editing per monthly issue - Up to 1 client-provided content asset can be added to the Newsletter per issue. This must be submitted in the proper format as outline in the Engage Help Portal - Additional customization of Newsletter content available at an additional fee - Automated reporting snapshot sent to client-designated contacts one week after the Newsletter is deployed - Newsletter campaign engagement reporting provided via Engage interface - Newsletter product onboarding training included in Program for new Clients - Hosting, monitoring, and scheduled deployment or download via Engage are included - The Program does not include Email Send fees					
NEWS22-SUB	Monthly Newsletter Version – Key Account Manager Personalization	Subscription	5/1/2021	4/30/2022	1.00
Key Account Manager branding, reporting, and infrequent content personalization of Questline monthly newsletter base draft. Includes template branding using account manager photo and contact information, campaign reporting by Key Account Manager, and up to 2 hours of account manager specific content edits per year. Quantity required for each account manager.					
<b>DISCOUNT:</b>					\$10,767.35
<b>Total:</b>					\$3,352.65

## PRICING SUMMARY

PRODUCT/SERVICE	FEE
Subscription	\$3,352.65
One-time	\$0.00
<b>DISCOUNT:</b>	\$10,767.35
<b>Total:</b>	\$3,352.65

Note: All quoted pricing valid through 5/18/2021.

## SCHEDULE OF FEES

CURRENT SCHEDULE OF FEES FOR WORK PERFORMED OR FOR LICENSING OR SUBSCRIPTION OF QUESTLINE LICENSED ASSETS





**Subscriptions.** Questline will provide any Subscription products and services as described above for the duration of the Subscription Term. Client shall pay the full amount of the Subscription Fee – regardless of Client's use (full, partial, etc.) of the services and deliverables of the Solution or Line Items.

Client will be invoiced 30 days in advance of the initial service date for any Subscription Fees which is immediately due and payable.

**Renewal.** After the initial 24-month Subscription Term, the Agreement will automatically renew for an additional 12 month Subscription Term 30 days prior to its expiration, unless either party gives the other party written notice 45 days prior to the end of the Subscription Term that they will not be renewing the Subscription. The Renewal Subscription Fee will increase annually by 7% year over year. Any such increases shall appear on Client's invoices issued pursuant to the Agreement.







## QUESTLINE LEGAL TERMS & CONDITIONS.

### Section 1. TERM

This Agreement will become effective on the date first shown above and will continue in effect through the completion of the custom work or services set forth herein, or the expiration of the Questline Asset License (as described in Section 4 hereof).

**Termination.** This Agreement may be terminated by Questline upon occurrence of any of the following, without prior notice or legal action by Questline: breach of this Agreement, any Statement of Work, or any other Policies and Procedures of Questline by Client, including, without limitation, nonpayment or untimely payment of any fees due to Questline and any violation of the Questline's Asset License; Client's insolvency, liquidation, or assignment of its stock, assets or business for the benefit of creditors, or upon appointment of a trustee or receiver to administer or conduct Client's business affairs, or upon Client's declaration of bankruptcy, without prior notice or legal action by Questline.

**Survival.** In the event of any termination of this Agreement, Sections 5, 6, 7, 8 and 11 hereof shall survive and continue in effect.

### Section 2. INDEPENDENT CONTRACTOR STATUS

**Intention of Parties.** It is the intention of the parties that Questline is an independent contractor and not an employee, agent, joint venturer, franchise or partner of Client. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Client and either Questline or any employee or agent of Questline or render any party liable for any debt or obligation incurred by any other party hereto. No Party is authorized to enter into agreements for or on behalf of any other Party hereto, to collect any obligation due or owed to any such party, or to bind any other party in any manner unless otherwise agreed in writing by the Parties.

**Non-exclusive.** Questline shall retain the right to perform work for others during the terms of this Agreement. Client shall retain the right to cause work of the same or a different kind to be performed by its own personnel or other contractors during the term of this Agreement.

### Section 3. CUSTOM SERVICES OR WORK PERFORMED BY QUESTLINE

**Performance by Questline.** Questline agrees to use all commercially reasonable efforts to perform the services and provide the work set forth herein by the specified delivery dates and in strict accordance with the requirements and specifications set forth in the Statement of Work. Questline agrees to commit sufficient resources and qualified personnel for the timely and satisfactory completion of the work. Questline agrees to participate in periodic status meetings and, as reasonably requested by Client, provide written status reports to Client concerning Questline's progress in performing the work. Questline agrees to notify Client of any act, event or circumstance that is likely to cause a material delay in completion of the work or attainment of scheduled milestones.

**Method of Performing Services.** Questline, will solely determine the method, details, and means of performing the work to be carried out for Client.





Reporting. Client will advise Questline of the designated Client representatives to whom Questline's representative(s) will report progress on work. Client and Questline shall develop appropriate administrative procedures for performance of work that is required to be performed at Client's site.

#### **Section 4. QUESTLINE ASSET LICENSE**

4.1 Licensed Assets. Some of the work or services to be provided by Questline to Client pursuant to a Statement of Work may require the use of various Licensed Assets of Questline, including without limitation, Questline owned content assets, including, for example, Questline's Engage Platform Assets, Engage Content Assets, Catalogue of Content Assets, eLibrary, and all foreign, federal, state and common law trademarks, service marks, domain names, Internet path names and addresses of whatsoever nature, trade dress, copyrights, know-how, show-how, patents, Inventions (whether or not patentable), mask works, software, proprietary data, customer lists, strategic plans, financial data, trade secrets, all other intangible assets of whatsoever nature and all applications for registration and/or issuance with respect to all the foregoing and whether or not any of the foregoing is registerable or patentable, including, without limitation, with respect to all of the foregoing: (a) all goodwill associated with any and all of the foregoing; (b) all parents, continuations, continuations in part, divisionals, reissues and extensions; and (c) all moral rights associated with any and all of the foregoing ("Questline Intellectual Property") (collectively, ("Questline Licensed Assets")). In the event Questline will use any of the Questline Licensed Assets to deliver any work or services for Client, the use of the Questline Licensed Assets is subject to the terms and conditions of the Questline Asset License set forth herein. Client agrees to abide by all terms and conditions of the Questline Asset License herein. If Client desires to create derivative works from the Questline Licensed Assets, Client must receive written consent from Questline.

Questline's Engage Platform and the corresponding access to content, content features and expanded content functionality that the Engage Platform provides is not included with Questline's Licensed Assets. Client is required to have a separate subscription to the Engage Platform for these functions.

Questline hereby grants to Client, subject to the terms, conditions, and restrictions contained herein a non-exclusive, revocable and worldwide right, license and privilege to (a) utilize the Questline Licensed Assets worldwide solely in connection with Client's business activities, and (b) reproduce, duplicate, or distribute the Questline Licensed Assets, solely in connection with Client's business activities.

The License granted herein may only be used by Client for the purposes(s) identified herein or as set forth in the Parties' Statement of Work(s) during the Term. Client shall not use any Questline Licensed Assets for any purpose, activity or service inconsistent with this Agreement without the express written authorization of Questline.

4.2 Quality Control. Client shall ensure that the goods or services it provides arising out of, reliant upon, or deriving from the Questline Licensed Assets shall be provided substantially in accordance with the quality standards of Client currently in place, or with such other quality standards as Questline reasonably shall establish from time to time. Questline shall not require Client to follow quality control standards or usage guidelines for the Questline Licensed Assets that are substantially different from those that Questline imposes on other Clients generally, or taking into account any relevant differences in their respective markets or products.

4.3 Limitations on Use of Licensed Trademarks. In the event of Client's use of the Questline's trademarks ("Licensed Trademarks") as included in the Questline Licensed Assets, Client shall faithfully reproduce the Licensed Trademarks' design, coloration and appearance in accordance with Questline's use of the marks and/or as instructed by Questline. Questline may modify such designs, coloration and appearance of its marks from time to time in its sole discretion. Client shall not modify the Licensed Trademarks in their design, coloration or appearance unless requested to do so by Questline. All displays of a Licensed Trademark by Client shall bear such trademark, service mark and





other notices as Questline shall require in its sole discretion, and Client shall adhere to any other reasonable and customary posting requirements developed by Questline with respect to the Licensed Trademarks. Client shall not: use a Licensed Trademark as part of, or in conjunction with, any other names or marks, use any marks, terms, designs or designations confusingly similar or diluting to the Licensed Trademarks, or register or attempt to register or assist any unauthorized third party in registration of or attempt to register any such confusingly similar or diluting mark, term, design or designation, without Questline's prior written approval. Client shall not use a Licensed Trademark in any manner that will indicate that it is using such Licensed Trademark other than as a Client.

4.4 Adoption and Notice of New Trademarks. Questline and Client must mutually agree, in advance, upon the Client's adoption of a new tradename or trademark to be used to identify or in connection with the Questline Licensed Assets, such as in the case of the Client's desire to provide or distribute the Questline Licensed Assets in a "white label" arrangement with Client's clients or customers ("White Label Trademarking"). In the event of the Parties' mutual agreement as to Client's adoption of White Label Trademarking, Client shall refrain from the adoption or use of any brand name, legend, symbol, design mark, trade name, or trademark that will cause disparagement or reputational harm to Questline or the Questline Licensed Assets, or that infringes upon the trademark or intellectual property rights of any third party.

4.5 Intellectual Property Notices and Markings. Client agrees that it shall take commercially reasonable measures to cause to appear on all materials on or in connection with which the Licensed Trademarks (including website pages) such legends, markings and notices as Questline may reasonably request in order to give any appropriate notice of Questline's copyright and trademark rights in the Questline Licensed Assets. Client shall accurately produce and reproduce all Questline intellectual property notices on all copies of products or materials Client produces or reproduces of the Questline Licensed Assets. In no event may Client remove any Questline intellectual property notices from any products or materials without the written advance approval of Questline. In the event of a White Label Trademarking arrangement, the Parties may mutually agree, upon Client's request, upon a modified intellectual property notice that reflects Client's status as a licensee of the Questline Licensed Assets.

4.6 Inspection of Samples. Questline shall have the right, upon reasonable and prior notice to Client, to inspect all products and materials of Client and any sub-licensee that bear a Licensed Trademark or use the Questline Licensed Assets for the purpose of determining whether they have met or are meeting the quality standards required under this Agreement. Client shall promptly produce and deliver to Questline such examples of its use of the Licensed Trademarks or Questline Licensed Assets as Questline reasonably requests.

4.7 Limitations on Use of Questline Licensed Assets. Client shall use, reproduce, distribute, perform, display or sublicense the Questline Licensed Assets solely in connection with Client's business activities, as defined in the Statement of Work between the Parties, and further subject to the specific use limitations set forth in this Section 4.7 (herein "Use Limitations"), for the limited Term of this License, defined herein in Section 4.18. Client shall not, without the express authorization of Questline, use the Questline Licensed Assets in any manner inconsistent with or that will harm, dilute, diminish or cause loss or diminution of value of Questline's rights in such.

4.8 Prohibited Modifications to Questline Licensed Assets. Client shall not modify, alter, derive from, add to, distribute, or otherwise change the Questline Licensed Assets, or any information contained therein, in any manner that creates, or potentially creates, a misrepresentation, false claim, or false perception of any third party.

Client shall not change or modify any videos subject to this Asset License.

Client shall indemnify and hold Questline harmless for any claims or liability related to any alleged misrepresentations, false claims, or false perceptions, pursuant to the provisions set forth in Section 4.16 herein.





4.9 Exclusions from Questline Licensed Assets. All third-party intellectual property incorporated into any of the Questline Licensed Assets, including, without limitation, any photographic images or video footage, any computer programs, any graphics or artwork, or any text copy, obtained by Questline from a third party, are subject to the legal limitations on Questline pursuant to Questline's contracts or licenses with the third-party owners thereof, or are excluded from this Questline Asset License. Such limitations may include a prohibition of use, prohibition of duplication or transmittal, or prohibition of creation of derivative works based upon such third-party intellectual property. Questline will, where possible, make reasonable efforts to advise Client of any third-party intellectual property subject to such limitations.

4.10 Ownership. Client acknowledges that Questline is the sole and exclusive owner of the Questline Licensed Assets, including all derivative works created by Client from the Questline Licensed Assets. Client agrees that it has no right, title or interest in or to any Questline Licensed Assets, including any derivative works created therefrom, except as a Client pursuant to the terms of this License. Client agrees that all uses of any Questline Licensed Assets by Client and the goodwill associated with such uses shall inure solely to the benefit of Questline. Upon termination of Client's right to use any Questline Licensed Assets as provided in this License, all right and interest of Client in and to such Questline Licensed Assets, including any derivative works derived from or containing any Questline Licensed Assets, shall revert fully to Questline. Client agrees, if requested by Questline, to cooperate fully with Questline by executing and recording appropriate documents evidencing Questline's ownership of the Questline Licensed Assets. Client agrees to take no action inconsistent with Questline's ownership of and interest in its Questline Licensed Assets or any of the terms of this License, or assist any third party in doing any of the same.

4.11 Maintenance; Prosecution and Legal Action. Questline shall maintain sole control and discretion of and regarding the prosecution and maintenance of the Questline Licensed Assets, including all registrations and legal actions required to maintain and enforce the Questline Licensed Assets.

4.12 Policing. The Parties shall cooperate to diligently police the Questline Licensed Assets. Client shall promptly notify Questline in writing of any unauthorized use, infringement, misappropriation, dilution or other violation of the Questline Licensed Assets of which it becomes aware. Client must retain all tracking code information provided by Questline as it places licensed material into Commercial Use.

4.13 Protection of Rights in Questline Licensed Assets. Client will not undertake any action that shall in any manner reduce, diminish, or jeopardize the effect and enforceability of the Questline Licensed Assets.

Client shall provide Questline with prompt written notice of any unauthorized uses by third parties of the Questline Licensed Assets. Questline shall have the primary right, which it may exercise in its sole discretion, to bring and control any suits or legal proceedings against any unauthorized use, infringement, misappropriation, dilution or other violation of the Questline Licensed Assets. Questline shall be entitled to retain the entirety of any monetary award arising from such suit or legal proceeding. Client shall cooperate with Questline in any litigation, legal proceeding, or enforcement action that Questline undertakes to enforce or protect the Questline Licensed Assets, including upon Questline's request the execution, filing or delivery of all documents or proof necessary for such purpose, including being named as a party to such suit, legal proceeding, or enforcement action. Client may participate and be represented in any such suit, proceeding or action brought by Questline by Client's legal counsel, at Client's sole expense.

Client shall have no claim whatsoever against Questline based upon or arising out of Questline's handling of or decisions regarding any suit, legal proceeding or enforcement action, or the settling, compromising or disposal thereof, regarding the Questline Licensed Assets. Client irrevocably releases and holds harmless Questline from any such claims.





Each Party shall bear its own costs, fees and expenses incurred or associated with any suit, legal proceeding, or enforcement action brought pursuant to Sections 4.10-4.13 herein.

## Section 5. COMPENSATION

**Fees.** Questline reserves the right to change such fee schedule for any work, service, subscription or license upon at least sixty (60) days' advance notice to Client. In the event the parties enter into a new Statement of Work or modify a portion of this Statement of Work, Questline reserves the right to change its current fee schedule without advance notice to Client.

**Lapsed Term.** If the Subscription Fee and the Subscription Term has lapsed and Client is on a Month to Month Subscription, the Monthly Subscription Fee shall be at the rate of one twelfth (1/12) the Annual Subscription Fee plus a twenty percent (20%) monthly premium.

**Estimated Fees.** Estimates are not guaranteed by Questline, but rather represent Questline's best estimate of the total fees for the work or services described. Questline will notify Client as soon as possible if the estimated fee will be exceeded, and Client may then request modification of the remaining identified and unperformed work or services to comport with the originally estimated fees.

**Invoices.** Questline shall submit invoices to Client for the work or services furnished, subscription or license fees for Questline Licensed Assets, and other expenses incurred hereunder based on the milestone payment schedule set forth herein, or, if no milestone payment schedule is set forth, in monthly intervals. Each invoice will provide a breakdown and distribution of charges.

**Date for Payment of Compensation.** Client shall pay each invoice in full within fortyfive (45) days after receipt. All past due invoices will be subject to a late payment fee and additional costs, as provided herein.

**Expenses.** Questline is entitled to reimbursement of expenses, limited to the actual costs Questline pays (net of all related discounts, rebates, commissions, allowances, write-downs and similar consideration or adjustments paid or allowed by the subcontractors) for non-labor expenses, including raw materials, travel and living costs for site visits to Client or other locations requested by Client, third-party software and equipment that Questline is required to procure in order to perform services for Client, and any other expenses identified as reimbursable in the terms of the applicable Statement of Work.

**Taxes.** Client shall be responsible for sales, use, excise and similar taxes due for the work, services, deliverables or any payments for the same. Questline's price(s) and any Billing Rates that apply under the Agreement exclude any and all present and future Federal, state, county, municipal, or other jurisdiction's sales, use, excise or other taxes that may apply to Client's purchase of the Work. For a period of three (3) years following completion of the Work, Client shall pay to Questline any such taxes that Questline is obligated by law to collect from Client for Work accepted and purchased by Client, provided Questline submits written notice to the Client within fourteen (14) days of Questline's receipt of notification of any imposition of such taxes. Client may direct Questline to withhold payment and elect to contest the amount or validity of any such tax imposition. Questline shall fully cooperate with Client in any such tax contest. Client shall reimburse Questline for any interest or penalties actually paid by Questline as a result of Client's exercise of its right to contest the imposition of any taxes.

**Records and Documentation.** Questline shall maintain account records and documentation to support all charges billed to Client. Upon receipt of reasonable notice and assurance of confidentiality, Questline shall provide to Client documentation of any charges or expenses billed to Client for review.







**Late Payment Penalties and Costs of Collection.** In the event Client fails to pay Questline any fee or expense in a timely manner as set forth herein, Client shall be liable to Questline for interest, billed at the rate of 1.5% per month for any balance unpaid as of the 16th day after delivery of an Invoice from Questline, and for any costs incurred by Questline, including Questline's attorneys fees, in the collection or recovery of any unpaid Client fees or costs.

**Credits.** Some Questline Content Products may be purchased as Content Credits. Client is able to draw against those Credits as individual initiatives unfold. However, all Credits purchased must be used in the contract year purchased and shall not be carried over year to year. Credits purchased cannot be withdrawn, transferred, refunded or shared in any way. Customers cannot receive a refund for any Credits. Customers will not be reimbursed for Credits purchased. Furthermore, Credits cannot be translated into money or anything of monetary value; any such attempt will be null and void. After one year, all Credits become null and void.

**Unused Credits.** During the contract the Client may be able to reallocate Credits to a different product(s) and/or service(s) mix than those originally contracted when the following is true: 1) Credits were not based on a subscription product or service, and 2) Unused Credits were based on product(s) and/or service(s) that were not used or delivered.

## **Section 6. CONFIDENTIALITY; INTELLECTUAL PROPERTY OWNERSHIP**

**Confidentiality.** The Parties shall maintain in strict confidence and shall use and disclose only as authorized by the Parties all information of a competitively sensitive or proprietary nature that either party receives in connection with the work performed for Client pursuant to each Statement of Work. The Parties shall require their respective personnel to agree to do likewise. The Parties shall take reasonable steps to identify for the benefit of the other party and its personnel any information of a competitively sensitive or proprietary nature, using means including confidentiality notices in written material where appropriate. These restrictions shall not be construed to apply to (1) information generally available to the public; (2) information released by the Parties generally without restriction; (3) information independently developed or acquired without reliance in any way on other protected information of the other party, or (4) information approved for the use and disclosure by the Parties or their personnel without restriction. Notwithstanding the foregoing restrictions, the Parties and their personnel may use and disclose any confidential information (a) to the extent required by an order of any court or other governmental authority, or (b) as necessary for it or them to protect their interest in this Agreement, but in each case only after the other party has been so notified and has had the opportunity, if possible, to obtain a protective order for such information or other appropriate remedy in connection with such disclosure. In the event that such protective order or other remedy is not obtained, or the other Party approves the disclosure, the disclosing Party agrees to furnish only that portion of the Confidential Information that the disclosing Party in good faith believes is legally required and shall exercise reasonable efforts to obtain assurance that confidential treatment shall be accorded of such information.

Each Party shall cease use of all Confidential Information that any Party has obtained from the other upon the expiration or earlier termination of this Agreement.

### **Intellectual Property Rights in Custom Work Product**

Subject to Questline's receiving full payment under this Agreement, Questline assigns to the Client, without representation or warranty, all rights, title and interest Questline may have in any work product specifically created by Questline for the Client pursuant to this Agreement (herein "Custom Work Product"), except that:

(a) Questline may display, use and distribute such Custom Work Product as part of its portfolio for promotional purposes;





(b) Questline shall own and retain all rights to any and all concepts, ideas, designs, proposals and other work and materials (collectively, "Work") which have been presented to the Client but either rejected by the Client, or otherwise not included in the final work product;

(c) Questline shall own and retain all rights, including all copyrights, trademarks, patents, trade secrets, moral rights, mask work rights, and all other intellectual property rights in any of its technology, technical documentation, computer programs, inventions, algorithms, software, architecture, modeling files, animation files, source or object code or files, schematics, wireframes, graphics, or other files or features incorporated into or utilized in or by the Custom Work Product (collectively herein "Background Technology"). Questline grants to Client a nonexclusive, non-transferrable, prepaid, worldwide license to use, reproduce, distribute, display, and perform Questline's Background Technology in compiled machine readable object code form only, and only to the extent such Background Technology is incorporated into Custom Work Product delivered by Questline pursuant to this Agreement, and for the purposes and in the locations or territories contemplated by this Agreement or any incorporated Statement of Work or Proposal. Such license shall be revocable by Questline in the event of the breach by Client of any obligation or term of this Agreement, including without limitation the failure to timely pay any fees due to Questline or use of the Background Technology for any reason or by any party not set forth in this Agreement, and is revoked by Questline upon the conclusion or termination of this Agreement for any reason;

(d) Unless the parties agree otherwise and in writing, Questline shall own and retain all rights, including all copyrights, trademarks, patents, trade secrets, moral rights, mask work rights, and all other intellectual property rights, in any of its additional pre-existing creative works (herein "Questline Pre-Existing Works") that do not constitute either Background Technology or Questline Licensed Assets. To the extent any Questline Pre-Existing Work(s) is or are incorporated into the Custom Work Product, Questline grants to Client a nonexclusive, non-transferrable, prepaid, worldwide license to use, reproduce, distribute, display, or perform such Questline Pre-Existing Work(s) for the purposes contemplated by this Agreement. Such license shall be revocable by Questline in the event of the breach by Client of any obligation or term of this Agreement, including without limitation the failure to timely pay any fees due to Questline; and

(e) Questline shall own and retain all rights in all Questline Licensed Assets, pursuant to the terms and conditions of the Questline Asset License as provided in Section 4 of this Agreement.

Questline Right of First Refusal – Rejected, Unused or Unimplemented Custom Work Product. In the event Client desires to utilize any of the rejected, unused, or conceptual but unimplemented Custom Work Product for any marketing campaign, promotion, product, service, advertisement or any other purpose outside the scope of this Agreement, then the Client shall provide Questline with the first right of refusal to design, create, develop, market and otherwise implement such rejected, unused or conceptual but unimplemented Custom Work Product. In the event Questline declines the additional opportunity, Questline, in its sole discretion, may (but shall not be required to) agree to license or transfer the rejected, unused or conceptual but unimplemented Custom Work Product to Client upon terms mutually agreed upon by the parties for implementation by a third party of Client's selection.

Third-Party Intellectual Property and Releases. In the event Questline must use Intellectual Property owned or otherwise required to be obtained from third-party owner, licensor or vendor (herein "Third-Party Intellectual Property") to incorporate into, or used or delivered with, the Custom Work Product, then the Statement of Work shall so specify. Further in such event, the Statement of Work shall indicate whether it is the responsibility of either Questline or Client to obtain or provide the rights or license to use or incorporate the Third-Party Intellectual Property. Unless otherwise specified in a Statement of Work, Questline shall have no responsibility for determining whether Third-Party Intellectual Property is free of possible infringement or violation of the intellectual property rights of any other party.





Questline Disclaimer of Intellectual Property Non-Infringement. Questline disclaims any express or implied warranty that the Custom Work Product or any Questline Licensed Asset is free from infringement upon the Intellectual Property Rights of any person or entity.

## **Section 7. NONSOLICITATION-NONINTERFERENCE WITH QUESTLINE PERSONNEL**

Acknowledgement of Potential Harm to Questline. Client acknowledges that Questline provides a valuable service by identifying and assigning qualified personnel for Client's work. Client further acknowledges that Client would receive substantial additional value, and Questline would be deprived of the benefits of its work force, if Client were to directly solicit for hire, interfere with Questline's employment relationship with, or hire Questline's personnel after they have been introduced to Client by Questline. Client further acknowledges that its solicitation for hire, interference with an employment relationship with, or hiring of any personnel of Questline would cause irreparable harm to Questline, for which irreparable harm money damages may be inadequate.

Covenant of Nonsolicitation, Noninterference or Nonemployment of Questline Personnel. In consideration of Client's acknowledgements set forth in Section 7.1 herein, Client shall not, without the prior written consent of Questline, recruit, solicit for hire, interfere with the employment of, or hire any personnel of Questline for a period of one (1) year after the completion of all work, services, or license or subscription terms in effect between the parties.

Liquidated Damages to Questline for Breach. In the event that Client hires any personnel of Questline within one (1) year of the completion of all work, services, or license or subscription terms in effect between the parties, Client shall, at the election of Questline (in Questline's sole discretion) to pursue monetary compensation in lieu of other legal or equitable remedies, pay to Questline an amount equal to twenty-five percent (25%) of the total first year compensation Client pays such personnel as liquidated damages for the Client's failure to comply with the covenant of nonsolicitation. The liquidated damages are a reasonable estimate (as of the date this Agreement is entered into) of the foreseeable damages Questline will incur as a result of a breach of the Covenant of Nonsolicitation

## **Section 8. WARRANTIES; LIMITATIONS**

Questline Warranties. (a) Questline represents, warrants and covenants that its work and services will be performed in a good and workmanlike manner. (b) its Work Product as delivered to Client will be free of Harmful Code. For this purpose, "Harmful Code" means any software or other materials that are intentionally designed to surreptitiously disrupt, disable, harm, or impede operations, or surreptitiously impair operation based on the lapse of time, including viruses, worms, time bombs, time locks, drop-dead devices, access codes, undisclosed security keys, undisclosed back doors, or trap door devices. However, intentional design constraints, security controls, and authorization or expiration features that are disclosed to Client or otherwise obvious in the operation of particular deliverables are not considered "Harmful Code" and are excluded from this Warranty. (c) its Work Product will not contain or require the use of Open Source Technology except as specified herein. For this purpose, "Open Source Technology" means software licensed under terms that require as a condition of the use, modification or distribution thereof that other software incorporated into, derived from, or distributed with such software (i) be disclosed or distributed in source code form, or (ii) be licensed under terms that permit making derivative works, or (iii) be redistributable at no charge to subsequent licensees.

Client Warranties. Client represents, warrants, and covenants that: (1) Client has the legal right and authority to enter into this Agreement; (2) Client has the legal right and authority to perform its obligations under this Agreement and to grant the rights and licenses described in this Agreement and in any applicable additional agreement Client enter into in connection with any of the services provided under this Agreement; (3) Client will provide all information, data and approvals required by Questline to perform Questline's work pursuant to this Agreement in a timely, accurate and complete manner. (3) All information, content, data and claims provided by Client to Questline are free from any misrepresentations, false







statements, or known infringements upon the rights of any third party; and (4) Client will access and use all Custom Work Product, services provided under this Agreement, and Questline Licensed Assets in full compliance with the terms of this Agreement and for the purposes contemplated by the parties in this Agreement.

**DISCLAIMER OF WARRANTIES BY QUESTLINE.** EXCEPT AS PROVIDED IN THIS SECTION 8, QUESTLINE AND ITS AFFILIATES, AGENTS AND SUBCONTRACTORS DO NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED BY ITS PERSONNEL OR THE RESULTS OBTAINED FROM THEIR WORK, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. QUESTLINE FURTHER DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF EFFECTIVENESS, SPECIFIC RESULTS, OR SPECIFIC QUALITY OR QUANTITY OF RETURN OR RESPONSE RELATED TO THE WORK OR SERVICES IT PROVIDES TO CLIENTS, OR ANY RESPONSIBILITY OR LIABILITY FOR TECHNICAL OR SERVICE INTERRUPTIONS, OR ANY THIRD PARTY BREACHES OF ITS TECHNOLOGY, DATA OR SYSTEMS. QUESTLINE'S WORK IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH REGARD TO THE WORK ARE EXPRESSLY EXCLUDED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, LACK OF DEFECT, OR ACCURACY.

**EXCLUSION OF DAMAGES.** IN NO EVENT SHALL QUESTLINE BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, PROFITS, BUSINESS INTERRUPTIONS, DOWNTIME, COST OF COVER, OR LOSS OF INFORMATION, OR FOR ACTS OF NEGLIGENCE, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION DOES NOT LIMIT A PARTY'S LIABILITY FOR BODILY INJURY OF A PERSON, DEATH, OR PHYSICAL DAMAGE TO TANGIBLE PROPERTY.

**LIMITATION ON ACTION.** ANY ACTION AGAINST QUESTLINE ARISING OUT OF, RESULTING FROM, OR RELATED TO THE PERFORMANCE OR BREACH OF THIS AGREEMENT SHALL BE FILED NOT LATER THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED, PROVIDED CLIENT HAS COMPLIED WITH ALL AGREEMENT REQUIREMENTS FOR NOTICE.

**Total Liability.** Client agrees that Questline's liability hereunder for damages, regardless of the form of action, shall not exceed the total amount paid by Client to Questline for services, licenses, or subscriptions pursuant to any Statement of Work to which such claim applies.

**Force Majeure.** Questline shall not be liable to Client for any failure or delay caused by events beyond Questline's control, including, without limitation, Client's failure to furnish necessary information, sabotage, failures or delays in transportation or communication, failure of electrical or communications equipment or services, failures or substitutions of equipment, labor disputes, accidents, shortages of labor, fuel, raw materials, or equipment, or technical failures.

**Data Protection.** Questline and its affiliates, agents and subcontractors shall take reasonable measures to (a) protect Personally Identifiable Information provided to it by Client from loss, theft or unauthorized use or access; (b) ensure that any such Personally Identifiable Information is used only as necessary to perform services pursuant to a Statement of Work, and (c) securely dispose of such Personally Identifiable Information upon termination of this Agreement or any applicable Statement of Work. In the event that Questline or its affiliates, agents or subcontractors become(s) aware of facts or circumstances evidencing the loss, theft or unauthorized access to or use of such Personally Identifiable Information, Questline promptly shall inform Client of such facts and circumstances and shall cooperate in the investigation and remediation of any such event. As used herein, "Personally Identifiable Information" shall mean and include information that alone or in combination with other information provided to Questline by Client is sufficient to





identify a specific individual person but shall not include any information to the extent that it is anonymized or aggregated in a manner that no longer pertains to a specific individual.

**Client Content Protection and Integrity.** Client will be responsible for protection, accuracy and integrity of all data, information and other content ("Content") it provides to Questline in connection with the services provided under this Agreement. Client will not provide, transmit or distribute, and will not permit any third party to provide, transmit or distribute, or to use the services provided under this Agreement to provide, transmit or distribute, any Content that: (a) infringes, misappropriates or violates any intellectual property or other rights of any third-party; (b) is defamatory, harmful to minors, obscene or child pornographic; (c) contains any viruses or programming routines intended to damage the services or any software, hardware or other technology used to provide the services or surreptitiously intercept or expropriate any data or information; or (d) is false, misleading or inaccurate. Questline and its affiliates, agents and contractors will not be responsible or liable for any deletion, correction, destruction, damage, loss or failure to store or back-up any Content. Questline and its affiliates, agents and contractors may take remedial action if any Content violates this Section, however Questline and its affiliates, agents and contractors are under no obligation to review any Content for accuracy or potential liability.

**Client Compliance with Communication Laws.** Client will comply with all relevant communication laws, including but not limited to the Telephone Consumer Protection Act as defined under 47 USC Section 2227, laws governing marketing, and regulations for any self-managed communications Client transmits using the Background Technology or Licensed Assets of Questline, including, without limitation, those related to e-mail, mobile or cellular text messaging, fax messaging, telephonic communications, and any other mode of communication. Client will at all times perform its obligations in a manner that will not cause Questline to be in material violation of any applicable laws or regulations. For purposes of its obligation under this Section, the acts or omissions of Client's employees, agents, representatives, contractors, subcontractors, or affiliates (and such affiliates, employees, agents, representatives, contractors or subcontractors) will also be deemed the acts or omissions of Client. Any costs and expenses associated with a violation of this Section shall be the sole responsibility of Client.

## **Section 9. ASSIGNMENT**

**No Assignment of Agreement.** Except as provided herein, neither Party may assign any of its rights or obligations under this Agreement to any person or entity without the prior written consent of the other Party, which consent shall not be unreasonably withheld; except that in the event of a corporate merger, reorganization, or if an entity acquires all or substantially all of the assets of the business unit of the assigning party connected to this Agreement. Any unauthorized assignment of this Agreement shall be null and void.

**No Third Party Beneficiaries.** This Agreement is for the sole and exclusive benefit of the parties hereto and nothing herein is intended to give or shall be construed to give to any person or entity other than the parties hereto any additional rights or remedies hereunder.

## **Section 10. INSURANCE**

Questline will provide and maintain, in effect during the performance of any Work under this Statement of Work minimum insurance coverage with carriers authorized to conduct business in the State in which the Work is to be done and otherwise satisfactory to Client, including:

- Workers compensation insurance ("WCI") with statutory limits, as required by the state in which the Work is to be performed.





- Employer's liability insurance ("ELI") with limits of not less than one million dollars (\$1,000,000.00) each accident for bodily injury by accident, one million dollars (\$1,000,000) each employee for bodily injury by disease, and one million dollars (\$1,000,000) policy limit.
- Commercial general liability ("CGL") insurance with a limit of not less than one million dollars (\$1,000,000.00) per occurrence and per project or per location aggregate, covering liability for bodily injury and property damage.
- Automobile liability insurance ("ALI") coverage with a limit of not less than one million dollars (\$1,000,000) per accident.
- Excess or Umbrella liability insurance coverage with a limit of not less than four million dollars (\$4,000,000.00) per occurrence and per project or per location aggregate.
- Professional liability insurance ("PLI") with a combined single limit of not less than two million dollars (\$2,000,000.00) per occurrence.
- Cyber Security Insurance with a limit of not less than five million dollars (\$5,000,000) per occurrence and in the aggregate.

Questline will be responsible for any deductibles or self-insured retentions applicable to the insurance provided in compliance with this Section 10.

To the extent permitted by applicable Laws, all above-mentioned insurance policies will comply with the following:

- Be primary and non-contributory to any other insurance afforded to Client;
- Provide for a waiver of all rights of subrogation which Questline's insurance carrier might exercise against Client, excluding PLI; and
- Any Excess or Umbrella liability coverage will not require contribution before it will apply.

## **Section 11. GENERAL PROVISIONS**

**Insurance by Client.** To the extent that Questline's personnel may perform work at Client's premises, Client shall maintain comprehensive general liability insurance, with limits of at least \$1 million combined single limit for personal injury and property damage for each occurrence.

**Indemnification.** (a) Client agrees to indemnify, defend, and hold Questline, its employees, owners, officers, board members, agents, and subcontractors harmless from any and all liabilities, claims, demands, damages, and all costs and expenses, arising out of the performance of the services performed pursuant to this Agreement that are caused, in whole or in part, by Client's negligent or wrongful act or omission or that of anyone employed by Client for whose acts Client may be liable, or that result from the use or misuse of the services performed pursuant to any Statement of Work under this Agreement. (b) Subject to the limitations and exclusions set forth in Section 8 of this Agreement, Questline agrees to indemnify and hold Client harmless from any and all liability, claims, demands, damages, and all costs and expenses in





connection therewith, for or arising out of the performance of Questline's services performed pursuant to this Agreement that are caused, in whole or in part, by Questline's willful misconduct or that of anyone employed by Questline for whose acts Questline may be liable. Client will indemnify and hold Questline harmless for any claims or actions by third parties against Questline, including without limitation those by governmental or regulatory authorities, based upon materials furnished by Client or where material created by Questline is substantially changed by Client, including without limitation any claim for false advertising, libel, slander, piracy, plagiarism, invasion of privacy, or infringement of intellectual property. Information or data obtained by Questline from Client to substantiate claims made in advertising is deemed to be "materials furnished by Client."

**Defense of Claims.** If Questline is alleged to be liable to any third party on account of any event requiring indemnification, Questline shall notify Client thereof and Client shall assume the defense thereof through counsel selected by Client that is acceptable to Questline (which acceptance shall not be unreasonably withheld), and Client shall bear all liabilities, claims, losses, damages, costs and expenses of such defense, including, without limitation, all reasonably incurred attorneys' fees and expenses, court costs, and expert witness or professional fees and expenses, and any resulting settlement, judgment, or award; provided, however, Client will not be liable for any liabilities, claims, losses, damages, costs and expenses that a court of competent jurisdiction shall have found in a final non-appealable judgment to have been primarily caused by the bad faith or willful misconduct of Questline. The failure of Questline to give notice shall not relieve Client of its obligations hereunder except to the extent (if any) that Client has been materially prejudiced thereby. Questline shall have the right to participate in the defense and settlement of any Claims. If, in its reasonable judgment, Questline believes that Client's legal counsel's representation of both Client or another person and Questline would present such legal counsel with a conflict of interest, then Questline may employ separate legal counsel to represent or defend it in any such claim, action, suit or proceeding, at Client's cost and expense. Whether or not Client chooses to defend or prosecute any such Claim, all of the parties hereto shall cooperate in the defense or prosecution thereof. In the event that Client does not elect to assume the defense of any Claim, then Questline's failure to defend itself or to participate in the defense of any such Claim shall not relieve Client of its obligations hereunder.

**Entire Agreement of the Parties.** This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Questline to Client, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this agreement shall be valid or binding. Any modification of this agreement will be effective only if it is in writing signed by the party to be charged.

**Partial Invalidity.** If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way. IF AND TO THE EXTENT ANY WAIVER, EXCLUSION, LIMITATION, INDEMNITY, OR OTHER PROVISION IN THIS AGREEMENT OR FAILS TO COMPLY WITH THE LAW OF THE STATE UNDER WHICH IT IS CONSTRUED DUE TO THE ABSENCE OF CAPITALIZATION OR OTHER GRAPHIC EMPHASIS, EACH PARTY WAIVES OBJECTION TO THE PROVISION ON THAT BASIS TO THE EXTENT PERMITTED BY LAW AND OTHERWISE AGREES TO BE ESTOPPED FROM RAISING SUCH OBJECTION IN ANY JUDICIAL PROCEEDING. IN DOING SO, EACH PARTY ACKNOWLEDGES THAT IT IS A SOPHISTICATED COMMERCIAL PARTY REPRESENTED BY COUNSEL IN CONNECTION WITH THE NEGOTIATION AND EXECUTION OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THIS SECTION.

**Attorneys' Fees.** The prevailing Party shall have the right to collect from the other Party its reasonable costs and attorneys' fees incurred in enforcing this Agreement.





**Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Nebraska without regard to its conflicts of law provisions. The parties agree that the jurisdiction and venue of any action with respect to this Agreement shall be in a court of competent subject matter jurisdiction located in the Dodge County Nebraska or the Federal District of Nebraska. The parties hereby consent to personal jurisdiction and proper venue in the courts of Dodge County Nebraska or the Federal District of Nebraska.

**Compliance with Law.** Questline and Client shall comply with all laws, regulations and requirements applicable to the Work, including, without limitation, international, federal, state and local laws, and the laws applicable to any location where any Work is to be performed. Such compliance shall include, without limitation, environmental, human rights, labor, employment, non-discrimination and anti-corruption laws (including the Foreign Corrupt Practices Act), and all applicable maritime, customs, export, and import laws, requirements, rules and regulations, and the applicable laws, requirements, rules and regulations of the country of origin or destination, any intermediate country, and the United States in the performance of the Work. The country of any location where Work is to be performed, whether it is the country of origin or destination or any intermediate country must be a member of the International Labour Organization (ILO). The Parties agree that in the performance of this Agreement they will not discriminate or permit discrimination against any person or group of persons on the grounds of sex, race, color, religion or natural origin in any manner prohibited by the laws of the United States. The costs of such compliance with the foregoing shall be borne exclusively by Client and Client shall defend, indemnify, and hold Questline harmless from any liabilities, damages, fines, penalties and costs arising from Client's noncompliance with this Section.

**Mediation.** If any controversy or claim arising out of or relating to this Agreement cannot be settled through negotiation between the Parties, the controversy or claim shall be submitted to mediation prior to the filing of any action. The cost of the mediation shall be borne equally between the Parties.

**Cumulative Remedies.** No remedy herein conferred upon or reserved to Questline is intended to be exclusive of any other remedy and each such remedy shall be cumulative, and shall be in addition to every other remedy given under this Agreement, or now or hereafter existing at law or in equity by statute. No delay or omission of Questline to exercise any right, privilege, or power accruing upon any event of default shall impair any such right, privilege, or power, or shall be construed to be a waiver of any such event of default or any acquiescence therein; and every power and remedy given by this Agreement to Questline may be exercised from time to time, as often as may be deemed expedient by Questline.

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**Notices.** All notices that are to be given hereunder by either party to the other may be affected in writing, transmitted by electronic mail, by personal delivery or by U.S. mail, registered or certified, postage prepared with return receipt requested. Mailed notices shall be addressed to the parties at the addresses below, but each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of the date of receipt; mailed notices will be deemed communicated as of three days after mailing, and electronic mail shall be deemed communicated as of the date of electronic receipt thereof.

**For City of Fremont:**

**Name:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Address:** \_\_\_\_\_





**For Questline, Inc.:**

**Name:** Attention: Legal Department **Email:** legal@questline.com  
**Address:** 5500 Frantz Rd. Ste 150  
Dublin, Ohio 43017

**Acceptance and Authorization**

IN WITNESS WHEREOF, and in acknowledgment that the Parties have read, understood, and agreed to the Services, Scope, Project Details, Deliverables, the Fees, Obligations, the Terms and Conditions herein, Questline and Client have caused this Statement of Work to be executed below by their duly authorized representatives.

**City of Fremont**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Name (Print):** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Questline, Inc.**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Name (Print):** \_\_\_\_\_ **Title:** \_\_\_\_\_





QUESTLINE

We Make Energy **Engaging**

## STATEMENT OF WORK

<b>SOLUTION:</b>	<b>2021</b>
<b>PREPARED FOR:</b>	<b>City of Fremont</b>
<b>DATE:</b>	<b>4/22/2021</b>

5500 Frantz Rd Suite 150  
Dublin, OH  
sales@questline.com  
(614) 376-0554





## THE QUESTLINE SOLUTION

Questline is a content marketing partner dedicated solely to the energy utility industry. Our mission is to provide effective content marketing solutions to energy utilities who want to build long-term relationships with their customers, increase program participation, drive customer engagement and grow customer satisfaction.

We are innovators, creators and problem-solvers for over 480 energy utilities across all 50 states. Questline's solutions are built around a data- and research-driven content marketing strategy, custom creative campaigns, a deep content catalog, and an easy-to-use content marketing platform.

## THE OPPORTUNITY

## SCOPE OF WORK

Questline will partner with City of Fremont to deliver the following products and services:

ID#	PRODUCT/SERVICE	TYPE	START	END	QTY
CUST01-SUB	Custom Content Production (Subscription)	Subscription	5/1/2021	4/30/2022	40.00
EDIT TO CLEARLY DEFINE SCOPE, DELIVERABLES, and TIMELINE					
Questline will develop custom content for our partners as an ongoing subscription according to pre-defined scope and deliverables. Pricing to scope should be based on the number of hours that are estimated to be required to complete the development of the content.					
The scope for this content development must define the number of revisions between Questline and the client, as well as a change control process if requirements change during the project.					
The development of any associated emails should be covered in other line items.					
DISCOUNT:					\$44.40
Total:					\$7,989.60

## PRICING SUMMARY

PRODUCT/SERVICE	FEE
Subscription	\$7,989.60
DISCOUNT:	\$44.40
Total:	\$7,989.60







Note: All quoted pricing valid through 5/18/2020.

## SCHEDULE OF FEES

### CURRENT SCHEDULE OF FEES FOR WORK PERFORMED OR FOR LICENSING OR SUBSCRIPTION OF QUESTLINE LICENSED ASSETS

**Subscriptions.** Questline will provide any Subscription products and services as described above for the duration of the Subscription Term. Client shall pay the full amount of the Subscription Fee – regardless of Client's use (full, partial, etc.) of the services and deliverables of the Solution or Line Items..

**One-time and Project.** One-time products and services designated above are offered on a For Fee basis for the services and deliverables as described.

Client will be invoiced 30 days in advance of the initial service date for any One-time Fees which is immediately due and payable.

**Renewal.** After the initial 24-month Subscription Term, the Agreement will automatically renew for an additional 12 month Subscription Term 30 days prior to its expiration, unless either party gives the other party written notice 45 days prior to the end of the Subscription Term that they will not be renewing the Subscription. The Renewal Subscription Fee will increase annually by 7% year over year. Any such increases shall appear on Client's invoices issued pursuant to the Agreement.





## QUESTLINE LEGAL TERMS & CONDITIONS.

### Section 1. TERM

This Agreement will become effective on the date first shown above and will continue in effect through the completion of the custom work or services set forth herein, or the expiration of the Questline Asset License (as described in Section 4 hereof).

**Termination.** This Agreement may be terminated by Questline upon occurrence of any of the following, without prior notice or legal action by Questline: breach of this Agreement, any Statement of Work, or any other Policies and Procedures of Questline by Client, including, without limitation, nonpayment or untimely payment of any fees due to Questline and any violation of the Questline's Asset License; Client's insolvency, liquidation, or assignment of its stock, assets or business for the benefit of creditors, or upon appointment of a trustee or receiver to administer or conduct Client's business affairs, or upon Client's declaration of bankruptcy, without prior notice or legal action by Questline.

**Survival.** In the event of any termination of this Agreement, Sections 5, 6, 7, 8 and 11 hereof shall survive and continue in effect.

### Section 2. INDEPENDENT CONTRACTOR STATUS

**Intention of Parties.** It is the intention of the parties that Questline is an independent contractor and not an employee, agent, joint venturer, franchise or partner of Client. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Client and either Questline or any employee or agent of Questline or render any party liable for any debt or obligation incurred by any other party hereto. No Party is authorized to enter into agreements for or on behalf of any other Party hereto, to collect any obligation due or owed to any such party, or to bind any other party in any manner unless otherwise agreed in writing by the Parties.

**Non-exclusive.** Questline shall retain the right to perform work for others during the terms of this Agreement. Client shall retain the right to cause work of the same or a different kind to be performed by its own personnel or other contractors during the term of this Agreement.

### Section 3. CUSTOM SERVICES OR WORK PERFORMED BY QUESTLINE

**Performance by Questline.** Questline agrees to use all commercially reasonable efforts to perform the services and provide the work set forth herein by the specified delivery dates and in strict accordance with the requirements and specifications set forth in the Statement of Work. Questline agrees to commit sufficient resources and qualified personnel for the timely and satisfactory completion of the work. Questline agrees to participate in periodic status meetings and, as reasonably requested by Client, provide written status reports to Client concerning Questline's progress in performing the work. Questline agrees to notify Client of any act, event or circumstance that is likely to cause a material delay in completion of the work or attainment of scheduled milestones.

**Method of Performing Services.** Questline, will solely determine the method, details, and means of performing the work to be carried out for Client.





Reporting. Client will advise Questline of the designated Client representatives to whom Questline's representative(s) will report progress on work. Client and Questline shall develop appropriate administrative procedures for performance of work that is required to be performed at Client's site.

#### **Section 4. QUESTLINE ASSET LICENSE**

4.1 Licensed Assets. Some of the work or services to be provided by Questline to Client pursuant to a Statement of Work may require the use of various Licensed Assets of Questline, including without limitation, Questline owned content assets, including, for example, Questline's Engage Platform Assets, Engage Content Assets, Catalogue of Content Assets, eLibrary, and all foreign, federal, state and common law trademarks, service marks, domain names, Internet path names and addresses of whatsoever nature, trade dress, copyrights, know-how, show-how, patents, Inventions (whether or not patentable), mask works, software, proprietary data, customer lists, strategic plans, financial data, trade secrets, all other intangible assets of whatsoever nature and all applications for registration and/or issuance with respect to all the foregoing and whether or not any of the foregoing is registerable or patentable, including, without limitation, with respect to all of the foregoing: (a) all goodwill associated with any and all of the foregoing; (b) all parents, continuations, continuations in part, divisionals, reissues and extensions; and (c) all moral rights associated with any and all of the foregoing ("Questline Intellectual Property") (collectively, ("Questline Licensed Assets"). In the event Questline will use any of the Questline Licensed Assets to deliver any work or services for Client, the use of the Questline Licensed Assets is subject to the terms and conditions of the Questline Asset License set forth herein. Client agrees to abide by all terms and conditions of the Questline Asset License herein. If Client desires to create derivative works from the Questline Licensed Assets, Client must receive written consent from Questline.

Questline's Engage Platform and the corresponding access to content, content features and expanded content functionality that the Engage Platform provides is not included with Questline's Licensed Assets. Client is required to have a separate subscription to the Engage Platform for these functions.

Questline hereby grants to Client, subject to the terms, conditions, and restrictions contained herein a non-exclusive, revocable and worldwide right, license and privilege to (a) utilize the Questline Licensed Assets worldwide solely in connection with Client's business activities, and (b) reproduce, duplicate, or distribute the Questline Licensed Assets, solely in connection with Client's business activities.

The License granted herein may only be used by Client for the purposes(s) identified herein or as set forth in the Parties' Statement of Work(s) during the Term. Client shall not use any Questline Licensed Assets for any purpose, activity or service inconsistent with this Agreement without the express written authorization of Questline.

4.2 Quality Control. Client shall ensure that the goods or services it provides arising out of, reliant upon, or deriving from the Questline Licensed Assets shall be provided substantially in accordance with the quality standards of Client currently in place, or with such other quality standards as Questline reasonably shall establish from time to time. Questline shall not require Client to follow quality control standards or usage guidelines for the Questline Licensed Assets that are substantially different from those that Questline imposes on other Clients generally, or taking into account any relevant differences in their respective markets or products.

4.3 Limitations on Use of Licensed Trademarks. In the event of Client's use of the Questline's trademarks ("Licensed Trademarks") as included in the Questline Licensed Assets, Client shall faithfully reproduce the Licensed Trademarks' design, coloration and appearance in accordance with Questline's use of the marks and/or as instructed by Questline. Questline may modify such designs, coloration and appearance of its marks from time to time in its sole discretion. Client shall not modify the Licensed Trademarks in their design, coloration or appearance unless requested to do so by Questline. All displays of a Licensed Trademark by Client shall bear such trademark, service mark and





other notices as Questline shall require in its sole discretion, and Client shall adhere to any other reasonable and customary posting requirements developed by Questline with respect to the Licensed Trademarks. Client shall not: use a Licensed Trademark as part of, or in conjunction with, any other names or marks, use any marks, terms, designs or designations confusingly similar or diluting to the Licensed Trademarks, or register or attempt to register or assist any unauthorized third party in registration of or attempt to register any such confusingly similar or diluting mark, term, design or designation, without Questline's prior written approval. Client shall not use a Licensed Trademark in any manner that will indicate that it is using such Licensed Trademark other than as a Client.

4.4 Adoption and Notice of New Trademarks. Questline and Client must mutually agree, in advance, upon the Client's adoption of a new tradename or trademark to be used to identify or in connection with the Questline Licensed Assets, such as in the case of the Client's desire to provide or distribute the Questline Licensed Assets in a "white label" arrangement with Client's clients or customers ("White Label Trademarking"). In the event of the Parties' mutual agreement as to Client's adoption of White Label Trademarking, Client shall refrain from the adoption or use of any brand name, legend, symbol, design mark, trade name, or trademark that will cause disparagement or reputational harm to Questline or the Questline Licensed Assets, or that infringes upon the trademark or intellectual property rights of any third party.

4.5 Intellectual Property Notices and Markings. Client agrees that it shall take commercially reasonable measures to cause to appear on all materials on or in connection with which the Licensed Trademarks (including website pages) such legends, markings and notices as Questline may reasonably request in order to give any appropriate notice of Questline's copyright and trademark rights in the Questline Licensed Assets. Client shall accurately produce and reproduce all Questline intellectual property notices on all copies of products or materials Client produces or reproduces of the Questline Licensed Assets. In no event may Client remove any Questline intellectual property notices from any products or materials without the written advance approval of Questline. In the event of a White Label Trademarking arrangement, the Parties may mutually agree, upon Client's request, upon a modified intellectual property notice that reflects Client's status as a licensee of the Questline Licensed Assets.

4.6 Inspection of Samples. Questline shall have the right, upon reasonable and prior notice to Client, to inspect all products and materials of Client and any sub-licensee that bear a Licensed Trademark or use the Questline Licensed Assets for the purpose of determining whether they have met or are meeting the quality standards required under this Agreement. Client shall promptly produce and deliver to Questline such examples of its use of the Licensed Trademarks or Questline Licensed Assets as Questline reasonably requests.

4.7 Limitations on Use of Questline Licensed Assets. Client shall use, reproduce, distribute, perform, display or sublicense the Questline Licensed Assets solely in connection with Client's business activities, as defined in the Statement of Work between the Parties, and further subject to the specific use limitations set forth in this Section 4.7 (herein "Use Limitations"), for the limited Term of this License, defined herein in Section 4.18. Client shall not, without the express authorization of Questline, use the Questline Licensed Assets in any manner inconsistent with or that will harm, dilute, diminish or cause loss or diminution of value of Questline's rights in such.

4.8 Prohibited Modifications to Questline Licensed Assets. Client shall not modify, alter, derive from, add to, distribute, or otherwise change the Questline Licensed Assets, or any information contained therein, in any manner that creates, or potentially creates, a misrepresentation, false claim, or false perception of any third party.

Client shall not change or modify any videos subject to this Asset License.

Client shall indemnify and hold Questline harmless for any claims or liability related to any alleged misrepresentations, false claims, or false perceptions, pursuant to the provisions set forth in Section 4.16 herein.





4.9 Exclusions from Questline Licensed Assets. All third-party intellectual property incorporated into any of the Questline Licensed Assets, including, without limitation, any photographic images or video footage, any computer programs, any graphics or artwork, or any text copy, obtained by Questline from a third party, are subject to the legal limitations on Questline pursuant to Questline's contracts or licenses with the third-party owners thereof, or are excluded from this Questline Asset License. Such limitations may include a prohibition of use, prohibition of duplication or transmittal, or prohibition of creation of derivative works based upon such third-party intellectual property. Questline will, where possible, make reasonable efforts to advise Client of any third-party intellectual property subject to such limitations.

4.10 Ownership. Client acknowledges that Questline is the sole and exclusive owner of the Questline Licensed Assets, including all derivative works created by Client from the Questline Licensed Assets. Client agrees that it has no right, title or interest in or to any Questline Licensed Assets, including any derivative works created therefrom, except as a Client pursuant to the terms of this License. Client agrees that all uses of any Questline Licensed Assets by Client and the goodwill associated with such uses shall inure solely to the benefit of Questline. Upon termination of Client's right to use any Questline Licensed Assets as provided in this License, all right and interest of Client in and to such Questline Licensed Assets, including any derivative works derived from or containing any Questline Licensed Assets, shall revert fully to Questline. Client agrees, if requested by Questline, to cooperate fully with Questline by executing and recording appropriate documents evidencing Questline's ownership of the Questline Licensed Assets. Client agrees to take no action inconsistent with Questline's ownership of and interest in its Questline Licensed Assets or any of the terms of this License, or assist any third party in doing any of the same.

4.11 Maintenance; Prosecution and Legal Action. Questline shall maintain sole control and discretion of and regarding the prosecution and maintenance of the Questline Licensed Assets, including all registrations and legal actions required to maintain and enforce the Questline Licensed Assets.

4.12 Policing. The Parties shall cooperate to diligently police the Questline Licensed Assets. Client shall promptly notify Questline in writing of any unauthorized use, infringement, misappropriation, dilution or other violation of the Questline Licensed Assets of which it becomes aware. Client must retain all tracking code information provided by Questline as it places licensed material into Commercial Use.

4.13 Protection of Rights in Questline Licensed Assets. Client will not undertake any action that shall in any manner reduce, diminish, or jeopardize the effect and enforceability of the Questline Licensed Assets.

Client shall provide Questline with prompt written notice of any unauthorized uses by third parties of the Questline Licensed Assets. Questline shall have the primary right, which it may exercise in its sole discretion, to bring and control any suits or legal proceedings against any unauthorized use, infringement, misappropriation, dilution or other violation of the Questline Licensed Assets. Questline shall be entitled to retain the entirety of any monetary award arising from such suit or legal proceeding. Client shall cooperate with Questline in any litigation, legal proceeding, or enforcement action that Questline undertakes to enforce or protect the Questline Licensed Assets, including upon Questline's request the execution, filing or delivery of all documents or proof necessary for such purpose, including being named as a party to such suit, legal proceeding, or enforcement action. Client may participate and be represented in any such suit, proceeding or action brought by Questline by Client's legal counsel, at Client's sole expense.

Client shall have no claim whatsoever against Questline based upon or arising out of Questline's handling of or decisions regarding any suit, legal proceeding or enforcement action, or the settling, compromising or disposal thereof, regarding the Questline Licensed Assets. Client irrevocably releases and holds harmless Questline from any such claims.





Each Party shall bear its own costs, fees and expenses incurred or associated with any suit, legal proceeding, or enforcement action brought pursuant to Sections 4.10-4.13 herein.

## **Section 5. COMPENSATION**

**Fees.** Questline reserves the right to change such fee schedule for any work, service, subscription or license upon at least sixty (60) days' advance notice to Client. In the event the parties enter into a new Statement of Work or modify a portion of this Statement of Work, Questline reserves the right to change its current fee schedule without advance notice to Client.

**Lapsed Term.** If the Subscription Fee and the Subscription Term has lapsed and Client is on a Month to Month Subscription, the Monthly Subscription Fee shall be at the rate of one twelfth (1/12) the Annual Subscription Fee plus a twenty percent (20%) monthly premium.

**Estimated Fees.** Estimates are not guaranteed by Questline, but rather represent Questline's best estimate of the total fees for the work or services described. Questline will notify Client as soon as possible if the estimated fee will be exceeded, and Client may then request modification of the remaining identified and unperformed work or services to comport with the originally estimated fees.

**Invoices.** Questline shall submit invoices to Client for the work or services furnished, subscription or license fees for Questline Licensed Assets, and other expenses incurred hereunder based on the milestone payment schedule set forth herein, or, if no milestone payment schedule is set forth, in monthly intervals. Each invoice will provide a breakdown and distribution of charges.

**Date for Payment of Compensation.** Client shall pay each invoice in full within fifteen (15) days after receipt. All past due invoices will be subject to a late payment fee and additional costs, as provided herein.

**Expenses.** Questline is entitled to reimbursement of expenses, limited to the actual costs Questline pays (net of all related discounts, rebates, commissions, allowances, write-downs and similar consideration or adjustments paid or allowed by the subcontractors) for non-labor expenses, including raw materials, travel and living costs for site visits to Client or other locations requested by Client, third-party software and equipment that Questline is required to procure in order to perform services for Client, and any other expenses identified as reimbursable in the terms of the applicable Statement of Work.

**Taxes.** Client shall be responsible for sales, use, excise and similar taxes due for the work, services, deliverables or any payments for the same. Questline's price(s) and any Billing Rates that apply under the Agreement exclude any and all present and future Federal, state, county, municipal, or other jurisdiction's sales, use, excise or other taxes that may apply to Client's purchase of the Work. For a period of three (3) years following completion of the Work, Client shall pay to Questline any such taxes that Questline is obligated by law to collect from Client for Work accepted and purchased by Client, provided Questline submits written notice to the Client within fourteen (14) days of Questline's receipt of notification of any imposition of such taxes. Client may direct Questline to withhold payment and elect to contest the amount or validity of any such tax imposition. Questline shall fully cooperate with Client in any such tax contest. Client shall reimburse Questline for any interest or penalties actually paid by Questline as a result of Client's exercise of its right to contest the imposition of any taxes.

**Records and Documentation.** Questline shall maintain account records and documentation to support all charges billed to Client. Upon receipt of reasonable notice and assurance of confidentiality, Questline shall provide to Client documentation of any charges or expenses billed to Client for review.







**Late Payment Penalties and Costs of Collection.** In the event Client fails to pay Questline any fee or expense in a timely manner as set forth herein, Client shall be liable to Questline for interest, billed at the rate of 1.5% per month for any balance unpaid as of the 16th day after delivery of an Invoice from Questline, and for any costs incurred by Questline, including Questline's attorneys fees, in the collection or recovery of any unpaid Client fees or costs.

**Credits.** Some Questline Content Products may be purchased as Content Credits. Client is able to draw against those Credits as individual initiatives unfold. However, all Credits purchased must be used in the contract year purchased and shall not be carried over year to year. Credits purchased cannot be withdrawn, transferred, refunded or shared in any way. Customers cannot receive a refund for any Credits. Customers will not be reimbursed for Credits purchased. Furthermore, Credits cannot be translated into money or anything of monetary value; any such attempt will be null and void. After one year, all Credits become null and void.

**Unused Credits.** During the contract the Client may be able to reallocate Credits to a different product(s) and/or service(s) mix than those originally contracted when the following is true: 1) Credits were not based on a subscription product or service, and 2) Unused Credits were based on product(s) and/or service(s) that were not used or delivered.

## **Section 6. CONFIDENTIALITY; INTELLECTUAL PROPERTY OWNERSHIP**

**Confidentiality.** The Parties shall maintain in strict confidence and shall use and disclose only as authorized by the Parties all information of a competitively sensitive or proprietary nature that either party receives in connection with the work performed for Client pursuant to each Statement of Work. The Parties shall require their respective personnel to agree to do likewise. The Parties shall take reasonable steps to identify for the benefit of the other party and its personnel any information of a competitively sensitive or proprietary nature, using means including confidentiality notices in written material where appropriate. These restrictions shall not be construed to apply to (1) information generally available to the public; (2) information released by the Parties generally without restriction; (3) information independently developed or acquired without reliance in any way on other protected information of the other party, or (4) information approved for the use and disclosure by the Parties or their personnel without restriction. Notwithstanding the foregoing restrictions, the Parties and their personnel may use and disclose any confidential information (a) to the extent required by an order of any court or other governmental authority, or (b) as necessary for it or them to protect their interest in this Agreement, but in each case only after the other party has been so notified and has had the opportunity, if possible, to obtain a protective order for such information or other appropriate remedy in connection with such disclosure. In the event that such protective order or other remedy is not obtained, or the other Party approves the disclosure, the disclosing Party agrees to furnish only that portion of the Confidential Information that the disclosing Party in good faith believes is legally required and shall exercise reasonable efforts to obtain assurance that confidential treatment shall be accorded of such information.

Each Party shall cease use of all Confidential Information that any Party has obtained from the other upon the expiration or earlier termination of this Agreement.

### **Intellectual Property Rights in Custom Work Product**

Subject to Questline's receiving full payment under this Agreement, Questline assigns to the Client, without representation or warranty, all rights, title and interest Questline may have in any work product specifically created by Questline for the Client pursuant to this Agreement (herein "Custom Work Product"), except that:

(a) Questline may display, use and distribute such Custom Work Product as part of its portfolio for promotional purposes;





(b) Questline shall own and retain all rights to any and all concepts, ideas, designs, proposals and other work and materials (collectively, "Work") which have been presented to the Client but either rejected by the Client, or otherwise not included in the final work product;

(c) Questline shall own and retain all rights, including all copyrights, trademarks, patents, trade secrets, moral rights, mask work rights, and all other intellectual property rights in any of its technology, technical documentation, computer programs, inventions, algorithms, software, architecture, modeling files, animation files, source or object code or files, schematics, wireframes, graphics, or other files or features incorporated into or utilized in or by the Custom Work Product (collectively herein "Background Technology"). Questline grants to Client a nonexclusive, non-transferrable, prepaid, worldwide license to use, reproduce, distribute, display, and perform Questline's Background Technology in compiled machine readable object code form only, and only to the extent such Background Technology is incorporated into Custom Work Product delivered by Questline pursuant to this Agreement, and for the purposes and in the locations or territories contemplated by this Agreement or any incorporated Statement of Work or Proposal. Such license shall be revocable by Questline in the event of the breach by Client of any obligation or term of this Agreement, including without limitation the failure to timely pay any fees due to Questline or use of the Background Technology for any reason or by any party not set forth in this Agreement, and is revoked by Questline upon the conclusion or termination of this Agreement for any reason;

(d) Unless the parties agree otherwise and in writing, Questline shall own and retain all rights, including all copyrights, trademarks, patents, trade secrets, moral rights, mask work rights, and all other intellectual property rights, in any of its additional pre-existing creative works (herein "Questline Pre-Existing Works") that do not constitute either Background Technology or Questline Licensed Assets. To the extent any Questline Pre-Existing Work(s) is or are incorporated into the Custom Work Product, Questline grants to Client a nonexclusive, non-transferrable, prepaid, worldwide license to use, reproduce, distribute, display, or perform such Questline Pre-Existing Work(s) for the purposes contemplated by this Agreement. Such license shall be revocable by Questline in the event of the breach by Client of any obligation or term of this Agreement, including without limitation the failure to timely pay any fees due to Questline; and

(e) Questline shall own and retain all rights in all Questline Licensed Assets, pursuant to the terms and conditions of the Questline Asset License as provided in Section 4 of this Agreement.

Questline Right of First Refusal – Rejected, Unused or Unimplemented Custom Work Product. In the event Client desires to utilize any of the rejected, unused, or conceptual but unimplemented Custom Work Product for any marketing campaign, promotion, product, service, advertisement or any other purpose outside the scope of this Agreement, then the Client shall provide Questline with the first right of refusal to design, create, develop, market and otherwise implement such rejected, unused or conceptual but unimplemented Custom Work Product. In the event Questline declines the additional opportunity, Questline, in its sole discretion, may (but shall not be required to) agree to license or transfer the rejected, unused or conceptual but unimplemented Custom Work Product to Client upon terms mutually agreed upon by the parties for implementation by a third party of Client's selection.

Third-Party Intellectual Property and Releases. In the event Questline must use Intellectual Property owned or otherwise required to be obtained from third-party owner, licensor or vendor (herein "Third-Party Intellectual Property") to incorporate into, or used or delivered with, the Custom Work Product, then the Statement of Work shall so specify. Further in such event, the Statement of Work shall indicate whether it is the responsibility of either Questline or Client to obtain or provide the rights or license to use or incorporate the Third-Party Intellectual Property. Unless otherwise specified in a Statement of Work, Questline shall have no responsibility for determining whether Third-Party Intellectual Property is free of possible infringement or violation of the intellectual property rights of any other party.







Questline Disclaimer of Intellectual Property Non-Infringement. Questline disclaims any express or implied warranty that the Custom Work Product or any Questline Licensed Asset is free from infringement upon the Intellectual Property Rights of any person or entity.

## **Section 7. NONSOLICITATION-NONINTERFERENCE WITH QUESTLINE PERSONNEL**

Acknowledgement of Potential Harm to Questline. Client acknowledges that Questline provides a valuable service by identifying and assigning qualified personnel for Client's work. Client further acknowledges that Client would receive substantial additional value, and Questline would be deprived of the benefits of its work force, if Client were to directly solicit for hire, interfere with Questline's employment relationship with, or hire Questline's personnel after they have been introduced to Client by Questline. Client further acknowledges that its solicitation for hire, interference with an employment relationship with, or hiring of any personnel of Questline would cause irreparable harm to Questline, for which irreparable harm money damages may be inadequate.

Covenant of Nonsolicitation, Noninterference or Nonemployment of Questline Personnel. In consideration of Client's acknowledgements set forth in Section 7.1 herein, Client shall not, without the prior written consent of Questline, recruit, solicit for hire, interfere with the employment of, or hire any personnel of Questline for a period of one (1) year after the completion of all work, services, or license or subscription terms in effect between the parties.

Liquidated Damages to Questline for Breach. In the event that Client hires any personnel of Questline within one (1) year of the completion of all work, services, or license or subscription terms in effect between the parties, Client shall, at the election of Questline (in Questline's sole discretion) to pursue monetary compensation in lieu of other legal or equitable remedies, pay to Questline an amount equal to twenty-five percent (25%) of the total first year compensation Client pays such personnel as liquidated damages for the Client's failure to comply with the covenant of nonsolicitation. The liquidated damages are a reasonable estimate (as of the date this Agreement is entered into) of the foreseeable damages Questline will incur as a result of a breach of the Covenant of Nonsolicitation

## **Section 8. WARRANTIES; LIMITATIONS**

Questline Warranties. (a) Questline represents, warrants and covenants that its work and services will be performed in a good and workmanlike manner. (b) its Work Product as delivered to Client will be free of Harmful Code. For this purpose, "Harmful Code" means any software or other materials that are intentionally designed to surreptitiously disrupt, disable, harm, or impede operations, or surreptitiously impair operation based on the lapse of time, including viruses, worms, time bombs, time locks, drop-dead devices, access codes, undisclosed security keys, undisclosed back doors, or trap door devices. However, intentional design constraints, security controls, and authorization or expiration features that are disclosed to Client or otherwise obvious in the operation of particular deliverables are not considered "Harmful Code" and are excluded from this Warranty. (c) its Work Product will not contain or require the use of Open Source Technology except as specified herein. For this purpose, "Open Source Technology" means software licensed under terms that require as a condition of the use, modification or distribution thereof that other software incorporated into, derived from, or distributed with such software (i) be disclosed or distributed in source code form, or (ii) be licensed under terms that permit making derivative works, or (iii) be redistributable at no charge to subsequent licensees.

Client Warranties. Client represents, warrants, and covenants that: (1) Client has the legal right and authority to enter into this Agreement; (2) Client has the legal right and authority to perform its obligations under this Agreement and to grant the rights and licenses described in this Agreement and in any applicable additional agreement Client enter into in connection with any of the services provided under this Agreement; (3) Client will provide all information, data and approvals required by Questline to perform Questline's work pursuant to this Agreement in a timely, accurate and complete manner. (3) All information, content, data and claims provided by Client to Questline are free from any misrepresentations, false





statements, or known infringements upon the rights of any third party; and (4) Client will access and use all Custom Work Product, services provided under this Agreement, and Questline Licensed Assets in full compliance with the terms of this Agreement and for the purposes contemplated by the parties in this Agreement.

**DISCLAIMER OF WARRANTIES BY QUESTLINE.** EXCEPT AS PROVIDED IN THIS SECTION 8, QUESTLINE AND ITS AFFILIATES, AGENTS AND SUBCONTRACTORS DO NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED BY ITS PERSONNEL OR THE RESULTS OBTAINED FROM THEIR WORK, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. QUESTLINE FURTHER DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF EFFECTIVENESS, SPECIFIC RESULTS, OR SPECIFIC QUALITY OR QUANTITY OF RETURN OR RESPONSE RELATED TO THE WORK OR SERVICES IT PROVIDES TO CLIENTS, OR ANY RESPONSIBILITY OR LIABILITY FOR TECHNICAL OR SERVICE INTERRUPTIONS, OR ANY THIRD PARTY BREACHES OF ITS TECHNOLOGY, DATA OR SYSTEMS. QUESTLINE'S WORK IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH REGARD TO THE WORK ARE EXPRESSLY EXCLUDED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, LACK OF DEFECT, OR ACCURACY.

**EXCLUSION OF DAMAGES.** IN NO EVENT SHALL QUESTLINE BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, PROFITS, BUSINESS INTERRUPTIONS, DOWNTIME, COST OF COVER, OR LOSS OF INFORMATION, OR FOR ACTS OF NEGLIGENCE, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION DOES NOT LIMIT A PARTY'S LIABILITY FOR BODILY INJURY OF A PERSON, DEATH, OR PHYSICAL DAMAGE TO TANGIBLE PROPERTY.

**LIMITATION ON ACTION.** ANY ACTION AGAINST QUESTLINE ARISING OUT OF, RESULTING FROM, OR RELATED TO THE PERFORMANCE OR BREACH OF THIS AGREEMENT SHALL BE FILED NOT LATER THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED, PROVIDED CLIENT HAS COMPLIED WITH ALL AGREEMENT REQUIREMENTS FOR NOTICE.

**Total Liability.** Client agrees that Questline's liability hereunder for damages, regardless of the form of action, shall not exceed the total amount paid by Client to Questline for services, licenses, or subscriptions pursuant to any Statement of Work to which such claim applies.

**Force Majeure.** Questline shall not be liable to Client for any failure or delay caused by events beyond Questline's control, including, without limitation, Client's failure to furnish necessary information, sabotage, failures or delays in transportation or communication, failure of electrical or communications equipment or services, failures or substitutions of equipment, labor disputes, accidents, shortages of labor, fuel, raw materials, or equipment, or technical failures.

**Data Protection.** Questline and its affiliates, agents and subcontractors shall take reasonable measures to (a) protect Personally Identifiable Information provided to it by Client from loss, theft or unauthorized use or access; (b) ensure that any such Personally Identifiable Information is used only as necessary to perform services pursuant to a Statement of Work, and (c) securely dispose of such Personally Identifiable Information upon termination of this Agreement or any applicable Statement of Work. In the event that Questline or its affiliates, agents or subcontractors become(s) aware of facts or circumstances evidencing the loss, theft or unauthorized access to or use of such Personally Identifiable Information, Questline promptly shall inform Client of such facts and circumstances and shall cooperate in the investigation and remediation of any such event. As used herein, "Personally Identifiable Information" shall mean and include information that alone or in combination with other information provided to Questline by Client is sufficient to





identify a specific individual person but shall not include any information to the extent that it is anonymized or aggregated in a manner that no longer pertains to a specific individual.

**Client Content Protection and Integrity.** Client will be responsible for protection, accuracy and integrity of all data, information and other content ("Content") it provides to Questline in connection with the services provided under this Agreement. Client will not provide, transmit or distribute, and will not permit any third party to provide, transmit or distribute, or to use the services provided under this Agreement to provide, transmit or distribute, any Content that: (a) infringes, misappropriates or violates any intellectual property or other rights of any third-party; (b) is defamatory, harmful to minors, obscene or child pornographic; (c) contains any viruses or programming routines intended to damage the services or any software, hardware or other technology used to provide the services or surreptitiously intercept or expropriate any data or information; or (d) is false, misleading or inaccurate. Questline and its affiliates, agents and contractors will not be responsible or liable for any deletion, correction, destruction, damage, loss or failure to store or back-up any Content. Questline and its affiliates, agents and contractors may take remedial action if any Content violates this Section, however Questline and its affiliates, agents and contractors are under no obligation to review any Content for accuracy or potential liability.

**Client Compliance with Communication Laws.** Client will comply with all relevant communication laws, including but not limited to the Telephone Consumer Protection Act as defined under 47 USC Section 2227, laws governing marketing, and regulations for any self-managed communications Client transmits using the Background Technology or Licensed Assets of Questline, including, without limitation, those related to e-mail, mobile or cellular text messaging, fax messaging, telephonic communications, and any other mode of communication. Client will at all times perform its obligations in a manner that will not cause Questline to be in material violation of any applicable laws or regulations. For purposes of its obligation under this Section, the acts or omissions of Client's employees, agents, representatives, contractors, subcontractors, or affiliates (and such affiliates, employees, agents, representatives, contractors or subcontractors) will also be deemed the acts or omissions of Client. Any costs and expenses associated with a violation of this Section shall be the sole responsibility of Client.

## **Section 9. ASSIGNMENT**

**No Assignment of Agreement.** Except as provided herein, neither Party may assign any of its rights or obligations under this Agreement to any person or entity without the prior written consent of the other Party, which consent shall not be unreasonably withheld; except that in the event of a corporate merger, reorganization, or if an entity acquires all or substantially all of the assets of the business unit of the assigning party connected to this Agreement. Any unauthorized assignment of this Agreement shall be null and void.

**No Third Party Beneficiaries.** This Agreement is for the sole and exclusive benefit of the parties hereto and nothing herein is intended to give or shall be construed to give to any person or entity other than the parties hereto any additional rights or remedies hereunder.

## **Section 10. INSURANCE**

Questline will provide and maintain, in effect during the performance of any Work under this Statement of Work minimum insurance coverage with carriers authorized to conduct business in the State in which the Work is to be done and otherwise satisfactory to Client, including:

- Workers compensation insurance ("WCI") with statutory limits, as required by the state in which the Work is to be performed.





- Employer's liability insurance ("ELI") with limits of not less than one million dollars (\$1,000,000.00) each accident for bodily injury by accident, one million dollars (\$1,000,000) each employee for bodily injury by disease, and one million dollars (\$1,000,000) policy limit.
- Commercial general liability ("CGL") insurance with a limit of not less than one million dollars (\$1,000,000.00) per occurrence and per project or per location aggregate, covering liability for bodily injury and property damage.
- Automobile liability insurance ("ALI") coverage with a limit of not less than one million dollars (\$1,000,000) per accident.
- Excess or Umbrella liability insurance coverage with a limit of not less than four million dollars (\$4,000,000.00) per occurrence and per project or per location aggregate.
- Professional liability insurance ("PLI") with a combined single limit of not less than two million dollars (\$2,000,000.00) per occurrence.
- Cyber Security Insurance with a limit of not less than five million dollars (\$5,000,000) per occurrence and in the aggregate.

Questline will be responsible for any deductibles or self-insured retentions applicable to the insurance provided in compliance with this Section 10.

To the extent permitted by applicable Laws, all above-mentioned insurance policies will comply with the following:

- Be primary and non-contributory to any other insurance afforded to Client;
- Provide for a waiver of all rights of subrogation which Questline's insurance carrier might exercise against Client, excluding PLI; and
- Any Excess or Umbrella liability coverage will not require contribution before it will apply.

#### **Section 11. GENERAL PROVISIONS**

**Insurance by Client.** To the extent that Questline's personnel may perform work at Client's premises, Client shall maintain comprehensive general liability insurance, with limits of at least \$1 million combined single limit for personal injury and property damage for each occurrence.

**Indemnification.** (a) Client agrees to indemnify, defend, and hold Questline, its employees, owners, officers, board members, agents, and subcontractors harmless from any and all liabilities, claims, demands, damages, and all costs and expenses, arising out of the performance of the services performed pursuant to this Agreement that are caused, in whole or in part, by Client's negligent or wrongful act or omission or that of anyone employed by Client for whose acts Client may be liable, or that result from the use or misuse of the services performed pursuant to any Statement of Work under this Agreement. (b) Subject to the limitations and exclusions set forth in Section 8 of this Agreement, Questline agrees to indemnify and hold Client harmless from any and all liability, claims, demands, damages, and all costs and expenses in





connection therewith, for or arising out of the performance of Questline's services performed pursuant to this Agreement that are caused, in whole or in part, by Questline's willful misconduct or that of anyone employed by Questline for whose acts Questline may be liable. Client will indemnify and hold Questline harmless for any claims or actions by third parties against Questline, including without limitation those by governmental or regulatory authorities, based upon materials furnished by Client or where material created by Questline is substantially changed by Client, including without limitation any claim for false advertising, libel, slander, piracy, plagiarism, invasion of privacy, or infringement of intellectual property. Information or data obtained by Questline from Client to substantiate claims made in advertising is deemed to be "materials furnished by Client."

**Defense of Claims.** If Questline is alleged to be liable to any third party on account of any event requiring indemnification, Questline shall notify Client thereof and Client shall assume the defense thereof through counsel selected by Client that is acceptable to Questline (which acceptance shall not be unreasonably withheld), and Client shall bear all liabilities, claims, losses, damages, costs and expenses of such defense, including, without limitation, all reasonably incurred attorneys' fees and expenses, court costs, and expert witness or professional fees and expenses, and any resulting settlement, judgment, or award; provided, however, Client will not be liable for any liabilities, claims, losses, damages, costs and expenses that a court of competent jurisdiction shall have found in a final non-appealable judgment to have been primarily caused by the bad faith or willful misconduct of Questline. The failure of Questline to give notice shall not relieve Client of its obligations hereunder except to the extent (if any) that Client has been materially prejudiced thereby. Questline shall have the right to participate in the defense and settlement of any Claims. If, in its reasonable judgment, Questline believes that Client's legal counsel's representation of both Client or another person and Questline would present such legal counsel with a conflict of interest, then Questline may employ separate legal counsel to represent or defend it in any such claim, action, suit or proceeding, at Client's cost and expense. Whether or not Client chooses to defend or prosecute any such Claim, all of the parties hereto shall cooperate in the defense or prosecution thereof. In the event that Client does not elect to assume the defense of any Claim, then Questline's failure to defend itself or to participate in the defense of any such Claim shall not relieve Client of its obligations hereunder.

**Entire Agreement of the Parties.** This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Questline to Client, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this agreement shall be valid or binding. Any modification of this agreement will be effective only if it is in writing signed by the party to be charged.

**Partial Invalidity.** If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way. IF AND TO THE EXTENT ANY WAIVER, EXCLUSION, LIMITATION, INDEMNITY, OR OTHER PROVISION IN THIS AGREEMENT OR FAILS TO COMPLY WITH THE LAW OF THE STATE UNDER WHICH IT IS CONSTRUED DUE TO THE ABSENCE OF CAPITALIZATION OR OTHER GRAPHIC EMPHASIS, EACH PARTY WAIVES OBJECTION TO THE PROVISION ON THAT BASIS TO THE EXTENT PERMITTED BY LAW AND OTHERWISE AGREES TO BE ESTOPPED FROM RAISING SUCH OBJECTION IN ANY JUDICIAL PROCEEDING. IN DOING SO, EACH PARTY ACKNOWLEDGES THAT IT IS A SOPHISTICATED COMMERCIAL PARTY REPRESENTED BY COUNSEL IN CONNECTION WITH THE NEGOTIATION AND EXECUTION OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THIS SECTION.

**Attorneys' Fees.** The prevailing Party shall have the right to collect from the other Party its reasonable costs and attorneys' fees incurred in enforcing this Agreement.





**Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflicts of law provisions. The parties agree that the jurisdiction and venue of any action with respect to this Agreement shall be in a court of competent subject matter jurisdiction located in the United States District Court of the Southern District of Ohio, or the Court of Common Pleas, Franklin County, Ohio. The parties hereby consent to personal jurisdiction and proper venue in the courts in the United States District Court of the Southern District of Ohio, or the Court of Common Pleas, Franklin County, Ohio.

**Compliance with Law.** Questline and Client shall comply with all laws, regulations and requirements applicable to the Work, including, without limitation, international, federal, state and local laws, and the laws applicable to any location where any Work is to be performed. Such compliance shall include, without limitation, environmental, human rights, labor, employment, non-discrimination and anti-corruption laws (including the Foreign Corrupt Practices Act), and all applicable maritime, customs, export, and import laws, requirements, rules and regulations, and the applicable laws, requirements, rules and regulations of the country of origin or destination, any intermediate country, and the United States in the performance of the Work. The country of any location where Work is to be performed, whether it is the country of origin or destination or any intermediate country must be a member of the International Labour Organization (ILO). The Parties agree that in the performance of this Agreement they will not discriminate or permit discrimination against any person or group of persons on the grounds of sex, race, color, religion or natural origin in any manner prohibited by the laws of the United States. The costs of such compliance with the foregoing shall be borne exclusively by Client and Client shall defend, indemnify, and hold Questline harmless from any liabilities, damages, fines, penalties and costs arising from Client's noncompliance with this Section.

**Mediation.** If any controversy or claim arising out of or relating to this Agreement cannot be settled through negotiation between the Parties, the controversy or claim shall be submitted to mediation prior to the filing of any action. The cost of the mediation shall be borne equally between the Parties.

**Cumulative Remedies.** No remedy herein conferred upon or reserved to Questline is intended to be exclusive of any other remedy and each such remedy shall be cumulative, and shall be in addition to every other remedy given under this Agreement, or now or hereafter existing at law or in equity by statute. No delay or omission of Questline to exercise any right, privilege, or power accruing upon any event of default shall impair any such right, privilege, or power, or shall be construed to be a waiver of any such event of default or any acquiescence therein; and every power and remedy given by this Agreement to Questline may be exercised from time to time, as often as may be deemed expedient by Questline.

VERSION02012021

**Notices.** All notices that are to be given hereunder by either party to the other may be affected in writing, transmitted by electronic mail, by personal delivery or by U.S. mail, registered or certified, postage prepared with return receipt requested. Mailed notices shall be addressed to the parties at the addresses below, but each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of the date of receipt; mailed notices will be deemed communicated as of three days after mailing, and electronic mail shall be deemed communicated as of the date of electronic receipt thereof.

**For City of Fremont:**

**Name:** \_\_\_\_\_

**Email:** \_\_\_\_\_







**Address:** \_\_\_\_\_

**For Questline, Inc.:**

**Name:** \_\_\_\_\_ Attention: Legal Department

**Email:** \_\_\_\_\_ legal@questline.com

**Address:** \_\_\_\_\_  
5500 Frantz Rd. Ste 150  
Dublin, Ohio 43017

**Acceptance and Authorization**

IN WITNESS WHEREOF, and in acknowledgment that the Parties have read, understood, and agreed to the Services, Scope, Project Details, Deliverables, the Fees, Obligations, the Terms and Conditions herein, Questline and Client have caused this Statement of Work to be executed below by their duly authorized representatives.

**City of Fremont**

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name (Print):** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Questline, Inc.**

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name (Print):** \_\_\_\_\_

**Title:** \_\_\_\_\_



## STAFF REPORT

TO: Utilities and Infrastructure Board

FROM: Jeff Shanahan, Power Plant Superintendent

DATE: May 11, 2021

SUBJECT: Lon D. Wright U8 Boiler Air Preheater Repairs.

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Recommendation: Recommendation for Contractor to perform Repairs to Lon D. Wright Power Plant Unit 8 Boiler Air Preheater.

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### **BACKGROUND:**

Lon D. Wright (LDW) Power Plant Unit 8 (U8) Boiler operates with a Ljungstrom Boiler Air Preheater. The Air Preheater utilizes boiler exhaust gases to preheat the combustion air for proper combustion and increased efficiency.

In 2020 LDW staff and a vendor inspected the Air Preheater and developed a report that identified the deficiencies. LDW staff created a bid document asking for pricing for repairs and installation of the required seal and cold end baskets. On April 13, 2021 bids were received and are listed below.

Three bidders asked for the specifications and two bid. Extreme Precision Industrial Contractors are utilizing Ljungstrom (the OEM) parts. Southernfield-EEC is utilizing Paragon parts. Bobcock and Wilcox Inc.(B&W) did not bid.

	EP-Industrial (Ljungstrom)	Southernfield (Paragon)	Bobcock and Wilcox Inc.
Base Scope including Taxes	\$161,237.12	\$313,804.00	No Bid

LDW staff and Burns &McDonnell Engineering reviewed the proposals and technical specifications and concluded that EP-Industrial utilizing Ljungstrom Equipment is the best value for LDW U8 Air Preheater Repair.

LDW Staff requests that the Utilities and Infrastructure Board recommend to the City of Fremont Mayor and City Council to authorize Department of Utility Staff to execute an agreement and issue a purchase order for the Lon D. Wright Unit 8 Boiler Air Preheater repairs to Extreme Precision Industrial Contractors for \$161,237.12. This item was budgeted in FY 20-21 some of the costs will be captured in FY 20-21 and the labor costs will be paid in FY 21-22 due to U8 outage schedule.

### **FISCAL IMPACT:**

FY 20-21 21-22 Fiscal impact \$161,237.12.



## STAFF REPORT

TO: Utility and Infrastructure Board

FROM: Dave Goedeken, P.E.  
Director of Public Works/City Engineer

DATE: May 11, 2021

SUBJECT: Approve Municipal Agreement for State Projects with NDOT for the Hwy 275, Douglas County North Improvement Project.

Recommend Approval of Agreement.
----------------------------------

**Background:** This is an agreement between the Nebraska Department of Transportation (NDOT), and the City of Fremont, to design and construct roadway improvement on Highway 275, North of the Douglas County Line. The NDOT will be the lead agency on this project, the NDOT will manage the design and construction of this project.

Portions of this roadway are within the city limits of Fremont and the City will be responsible for a share of the work within city limits.

**Fiscal Impact:** The City's fiscal responsibility for work within the city limits is estimated at \$153,360.00. The cost of work outside city limits will be bore entirely by the NDOT. Final cost share will be based on actual construction and administrative costs following completion of the project.

**MUNICIPALITY AGREEMENT**  
**STATE PROJECTS**

STATE OF NEBRASKA, DEPARTMENT OF TRANSPORTATION  
CITY OF FREMONT  
PROJECT NO. NH-275-6(139)  
CONTROL NO. 22582  
DOUGLAS COUNTY LINE NORTH

**THIS AGREEMENT** is between City of Fremont, a municipal corporation of the State of Nebraska ("Municipality"), and State of Nebraska, Department of Transportation ("State"), collectively referred to as the "Parties".

**WITNESSETH:**

**WHEREAS**, State intends to improve a portion of State Highway US-275 at the location as shown on Exhibit "A"; and

**WHEREAS**, State intends that the improvement be developed and constructed under the designation of Project No. NH-275-6(139); and

**WHEREAS**, the improvement is located within the designated urban area of Fremont, Nebraska, and funds administered by State will be made available for the construction of this project; and

**WHEREAS**, the Chairperson is authorized by the City Council to execute this Agreement, as evidenced by the Resolution of City Council dated the \_\_\_\_\_ day of \_\_\_\_\_, 2021, attached as Exhibit "D", and incorporated herein by this reference; and

**WHEREAS**, this Agreement is related to the portion of the project on State Highway US-275 located within Municipality's corporate limits; and

**WHEREAS**, Parties intend that this Agreement describe certain roles and responsibilities applicable to this project; and

**WHEREAS**, after State has accepted the project, Municipality will be solely responsible for the maintenance, repair and replacement, when necessary, of any curb ramps and drainage facilities along the project, in accordance with Neb. Rev. Stat. § 39-2105 and § 39-1339, including, but not limited to, subsection § 39-1339(4); and

**WHEREAS**, Municipality agrees that State incurred preliminary engineering costs will be reimbursed by the Municipality using the participation formulas described elsewhere in this Agreement. Preliminary Engineering costs could include, but are not limited to, the following activities: planning, engineering, traffic counts and study, public involvement and engagement, utilities, right of way, construction, material reproduction, printing and travel related costs associated with the project; and

**WHEREAS**, concerning Municipality's share of the project costs, Federal Regulations provide that Municipality shall not profit or otherwise gain from special assessments that exceed Municipality's share of project costs; and

**WHEREAS**, the project work within the corporate limits is described below in Section 2.

**NOW THEREFORE**, in consideration of these facts and the mutual promises of the Parties hereto, the Parties agree as follows:

#### **SECTION 1. DURATION OF THE AGREEMENT**

- 1.1 Effective Date** - This Agreement is effective immediately on the date it is fully executed by the Parties.
- 1.2 Renewal, Extension or Amendment** - This Agreement may be renewed, extended or amended by mutual agreement or as otherwise provided herein.
- 1.3 Identifying Date** - For convenience, this Agreement's identifying date will be the date the State signed the Agreement.
- 1.4 Duration** - This Agreement will remain in full force and effect for future responsibilities of Municipality described herein, such as for parking, encroachments and maintenance, unless such responsibilities have been rescinded by State. State will treat the remainder of this Agreement as inactive upon the happening of either (1) the waiver of an audit review, or (2) the final completion of an audit review by the State or its authorized representative and the resolution of all issues identified in the audit report.
- 1.5 Termination** - Further, State reserves the right to terminate the Agreement as provided herein.

## **SECTION 2. DESCRIPTION OF THE WORK WITHIN THE CORPORATE LIMITS**

- 2.1 The Parties agree State will develop plans and specifications and cause the project to be constructed at the location shown on Exhibit "A", attached and incorporated herein by this reference, and in accordance with plans and specifications and the provisions of this Agreement. Generally, the improvements to be constructed within the corporate limits include the following:
- 2.1.1 Milling and resurfacing US-275 mainline and surfaced shoulders, including the ramp terminals with concrete repair, bridge repair and overlay, culvert extensions, and removing and replacing guardrail beginning at R.P. 152+44 and extending to the south corporate limits at R.P. 156+93 as outlined on Exhibit "A".
- 2.1.2 Municipality will be solely be responsible for the costs of the work on Military Avenue and Morningside Road that is within the corporate limits and outside the abutments of the bridges over US-275, as shown on Exhibits "B" and "C", attached and incorporated herein by this reference. All other costs will be the responsibility of State. The work generally consists of guardrail replacement, bridge repairs, and asphalt overlay of the bridge approaches.

## **SECTION 3. STATE RESPONSIBILITIES**

### **State shall:**

- 3.1 Prepare at its sole discretion, plans and specifications for State's proposed subject project. State will coordinate the development of the plans and specifications with Municipality. State has sole authority to modify the plans or specifications as necessary to complete the proposed improvements.
- 3.2 Acquire all property rights for Right of Way (ROW) for the project that will not be acquired by Municipality.
- 3.3 Advertise and conduct a letting and receive bids on the proposed improvement. State has the sole authority to determine, and award the contract to, the lowest responsible bidder. State shall sign the construction contract.
- 3.4 Supervise and cause completion of the construction of the improvement as shown in the construction contract documents and modifications thereto. State has sole authority to execute any contractor change orders-supplemental agreements required for construction of the project within Municipality's corporate limit. State will notify the Municipality of any contractor change orders-supplemental agreements that increase



Municipality's cost.

- 3.5 Reimburse, when applicable, Municipality for the non-betterment relocation of municipally owned utility facilities as provided in SECTION 10. UTILITY RELOCATION WORK.
- 3.6 State will notify Municipality of any MS4 components to be constructed as part of the project.

#### **SECTION 4. MUNICIPALITY RESPONSIBILITIES**

- 4.1 Regulate, to the extent Municipality has authority to do so, all future development and use of property adjoining the public ROW as described in SECTION 6. MUNICIPALITY'S DUTIES AND RIGHTS REGARDING RIGHT OF WAY.
- 4.2 Require that all future entrances from private property to the highway ROW within the limits of this project receive approval of the Director-State Engineer, Department of Transportation or authorized representative, pursuant to Neb. Rev. Stat. § 39-1332 prior to Municipality approval or Municipality issuing a building permit for the site.
- 4.3 Cause the removal of all advertising signs from the existing highway ROW. Municipality also agrees to cause the removal from the existing highway ROW of other privately owned encroachments, facilities, objects, structures, or things, and to keep the existing and new highway ROW free of future encroachments, facilities, objects, structures, or things, except those authorized by permit from Municipality and approved by State and Federal Highway Administration.
- 4.4 Comply with, for project work performed by Municipality, the provisions of the Nebraska Fair Employment Practices Act, Neb. Rev. Stat. §§ 48-1101 - 48-1126, and all regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49 CFR, Parts 21 and 27, as set forth in the SECTION 17. TITLE VI NONDISCRIMINATION CLAUSES.
- 4.5 Perform the present and future duties assigned to Municipality under this Agreement at its sole cost except when costs are specifically reimbursable under this Agreement.
- 4.6 Obtain approval of State, with Federal Highway Administration concurrence, prior to making or causing changes in the roadway geometrics, either during project construction or after the project is completed. Changes that require prior approval include but are not limited to: access control, driveways, median breaks, parking restrictions or any other traffic control items.

- 4.7 Amend ordinances, as necessary, to establish pavement or ground elevations shown in the plans when proposed construction involves a change in elevations established by a pre-existing ordinance.
- 4.8 If the Municipality procures consultant services for preliminary engineering and construction engineering for non-betterment rehabilitation of municipally owned and operated utilities by the Municipality, the Municipality agrees to comply with Chapter 4 of the "Nebraska Department of Transportation LPA Guidelines Manual for Federal-Aid Projects".
- 4.9 After State has accepted the project, Municipality will be solely responsible for the maintenance, repair and replacement, when necessary, of any curb ramps and storm drainage facilities along the project, in accordance with Neb. Rev. Stat. § 39-2105 and § 39-1339, including, but not limited to, subsection § 39-1339(4).

As part of State's project, State was required by law to construct Municipal Separate Storm Sewer System ("MS4") facilities in accordance with State's MS4 Program. State's MS4 Program may be found in Chapter 3 of the Drainage Design and Erosion Control Manual. After construction, and in accordance with Neb. Rev. Stat. § 39-1339, Municipality will be obligated to identify all applicable MS4 maintenance requirements, and operate and maintain all MS4 components constructed with this project. Municipality agrees to maintain all MS4 components in accordance with State's MS4 Program. Municipality may seek State's approval for Municipality to use Municipality's MS4 maintenance guidance or requirements, if applicable.

#### **SECTION 5. CONSTRUCTION SCHEDULE**

State will determine the construction schedule for this project.

#### **SECTION 6. MUNICIPALITY'S DUTIES AND RIGHTS REGARDING RIGHT OF WAY**

- 6.1 Encroachments: Municipality and State will cooperate to cause the removal of encroachments from public ROW, or correction or alteration in the public ROW, as necessary for the construction of the aforesaid project.

- 6.2 Adjacent Development: Municipality understands that State highway ROW shall be held inviolate for State highway purposes pursuant to Neb. Rev. Stat. § 39-1359, and no physical or functional encroachments, structures, or uses shall be permitted within such right-of-way limits, except by written consent of State. Municipality will regulate, to the fullest extent allowed by law, the private or non-transportation related public development of property adjoining the public ROW, to prevent future encroachment or uses of the public ROW, except by written consent of State. Municipality shall not issue a building permit for an adjacent property which requires work on the state highway right of way unless State has given advanced written approval of the proposed plans.
- 6.3 Special Assessments: Municipality shall not use special assessments to defray Municipality's costs under this Agreement unless Municipality has received, in advance, written consent from State's Right of Way Division Manager.

#### **SECTION 7. ROADWAY LIGHTING SYSTEM**

*This section has intentionally been left blank*

#### **SECTION 8. TRAFFIC SIGNAL EQUIPMENT**

*This section has intentionally been left blank*

#### **SECTION 9. PERMISSION TO USE STATE RIGHT OF WAY**

*This section has intentionally been left blank*

#### **SECTION 10. UTILITY RELOCATION WORK**

##### **10.1 Overview**

The Parties understand that existing Municipality and non-Municipality owned utility facilities may conflict with State's project. State will enter into a separate agreement(s) to establish the roles, duties, and financial responsibilities for the necessary relocation of utility facilities.

##### **10.2 State Highway Right-of-Way**

Municipality shall obtain a permit from the State for utility relocation work that occupies State Highway ROW.



## **SECTION 11. MUNICIPALITY'S FINANCIAL RESPONSIBILITIES**

Municipality's cost of this project will be 100% of the cost of work within the corporate limits, as described in Section 2.1.2. State's preliminary estimate of Municipality's cost is \$153,360, but Municipality's actual cost is likely to be greater than the preliminary estimate as the details of design are further developed. Costs include those incurred to date and future costs.

Municipality shall bear its own costs performing its duties under this Agreement.

**11.1** *This section has intentionally been left blank*

**11.2 Municipality's cost of the project within the corporate limits:** The total cost of work within Municipality corporate limits for which Municipality is responsible is currently estimated to be \$153,360. This includes, but is not limited to, the costs for: preliminary engineering, construction, and construction engineering.

**11.3 Calculation of Municipality costs:** A breakdown of Municipality's project cost is as follows:

**11.3.1 Preliminary Engineering.** Municipality's share for preliminary engineering is estimated to be \$4,260. This is calculated as 3% of Municipality's share of construction costs.

**11.3.2 Municipality's Construction Cost.** The actual cost of construction for work within the corporate limits for which Municipality is responsible is calculated by multiplying unit prices by final quantities for work. Unit prices and final quantities may be different than bid prices and estimated quantities as a result of field measurement and the contractor change order-supplemental agreement process. Municipality's cost for construction is estimated to be \$142,000.

**11.3.3 Construction Engineering.** The Municipality's share for construction engineering is estimated to be \$7,100. This is calculated as 5% of Municipality's share of construction costs.

**11.4 Payment by Municipality:** At times determined by the State, and after execution of this Agreement, the State will invoice the Municipality for some or all of Municipality's cost share of the State-incurred preliminary engineering project costs. Upon award of the construction contract, the State will invoice the Municipality for Municipality's cost share of construction, construction engineering, and any unbilled preliminary engineering expenses. The Municipality shall pay the State within 30 calendar days of receipt of



invoice from the State. The final settlement between the State and the Municipality will be made following final audits and when the final costs have been determined by the State.

#### **SECTION 12. PROJECT TEMPORARY TRAFFIC CONTROL**

- 12.1 All temporary traffic control devices will conform to the latest approved edition of the Manual on Uniform Traffic Control Devices and Nebraska Supplements thereto.
- 12.2 If Municipality is to perform or contract for any work on the state highway within the project limits, Municipality will develop a traffic control plan related to that work. The plan will be provided to State's Project Manager for review and acceptance. Municipality will provide, operate and maintain Municipality's traffic control devices in accordance with its accepted traffic control plan.
- 12.3 Municipality's work must comply with all traffic safety regulations, including those prescribed in the latest approved edition of the Manual of Uniform Traffic Control Devices and the Nebraska Supplement thereto. Municipality shall use caution when working in State ROW.

#### **SECTION 13. PLANS AND SPECIFICATIONS**

The plans and specifications for this project will be on file in the Lincoln central headquarters office of the Nebraska Department of Transportation.

#### **SECTION 14. TERMINATION**

State has the sole discretion to suspend the work in part or in whole or to terminate this Agreement; such action on its part will in no event be deemed a breach of this Agreement by State. State will provide written notification to Municipality of such suspension or termination.

#### **SECTION 15. FAIR EMPLOYMENT PRACTICES ACT**

Municipality agrees to abide by the Nebraska Fair Employment Practices Act, as provided by Neb. Rev. Stat. § 48-1101 through § 48-1126.

#### **SECTION 16. DISADVANTAGED BUSINESS ENTERPRISES**

- 16.1 Policy: Municipality and State further agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement.

16.2 Disadvantaged Business Enterprises Obligation: Municipality and State further agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, Municipality shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Municipality shall not discriminate on the basis of race, color, sex, age, disability, or national origin in the award and performance of FHWA assisted contracts.

Municipality acting as a sub-recipient of Federal-aid funds on this project agrees to adopt the Nebraska Disadvantaged Business Enterprise Unified Certification Program for the Federal-aid contracts Municipality executes on this project.

Failure of Municipality to carry out the requirements set forth above on any work performed by Municipality shall constitute breach of contract and, after the notification of the FHWA, may result in termination of the Agreement or contract by State or such remedy as State deems appropriate.

#### **SECTION 17. TITLE VI NONDISCRIMINATION CLAUSES**

**During the performance of this Agreement, the Municipality, for itself, its assignees and successors in interest agrees as follows:**

17.1 Compliance with Regulations: The Municipality shall comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Parts 21 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

17.2 Nondiscrimination: The Municipality, with regard to the work performed by it after award and prior to completion of the contract work, shall not discriminate on the basis of race, color, sex, age, religion, disability or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Municipality shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "A," "B," and "C" of Part 21 of the Regulations.

**17.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment:**

In all solicitations either by competitive bidding or negotiation made by the Municipality for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Municipality of the Municipality's obligations under this Agreement and the Regulations relative to nondiscrimination on the basis of race, color, sex, age, religion, disability or national origin.

**17.4 Information and Reports:** The Municipality shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Municipality shall so certify to State, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

**17.5 Sanctions for Noncompliance:** In the event of the Municipality's noncompliance with the nondiscrimination provisions of this Agreement, State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including but not limited to:

- (a) Withholding of payments to the Municipality under this Agreement until the Municipality complies, and/or
- (b) Cancellation, termination or suspension of this Agreement, in whole or in part.

**17.6 Incorporation of Provisions:** The Municipality shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Municipality shall take such action with respect to any subcontract or procurement as State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Municipality may request State to enter into such litigation to protect the interests of State, and in addition, the Municipality may request the United States to enter into such litigation to protect the interests of the United States.

**SECTION 18. ENTIRE AGREEMENT**

This Agreement, including all exhibits and documents incorporated or included herein, constitutes the entire agreement of the Parties. This Agreement supersedes all communications, representations, understandings, either oral or written hereto, leading up to this Agreement. Any existing written agreements between the Parties remain in effect, except the language of this Agreement governs over conflicting language on the same subject in an existing written agreement.

**IN WITNESS WHEREOF**, the Parties hereby execute this Agreement pursuant to lawful authority as of the date signed by each party.

**EXECUTED** by Municipality this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

WITNESS:

CITY OF FREMONT

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**EXECUTED** by State this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

STATE OF NEBRASKA  
DEPARTMENT OF TRANSPORTATION  
Michael H. Owen, P.E.

\_\_\_\_\_  
Roadway Design Engineer

RECOMMENDED:  
Timothy W. Weander, P.E.

\_\_\_\_\_  
District 2 Engineer      Date

Project No. NH-275-6(139)  
Control No. 22582  
City of Fremont

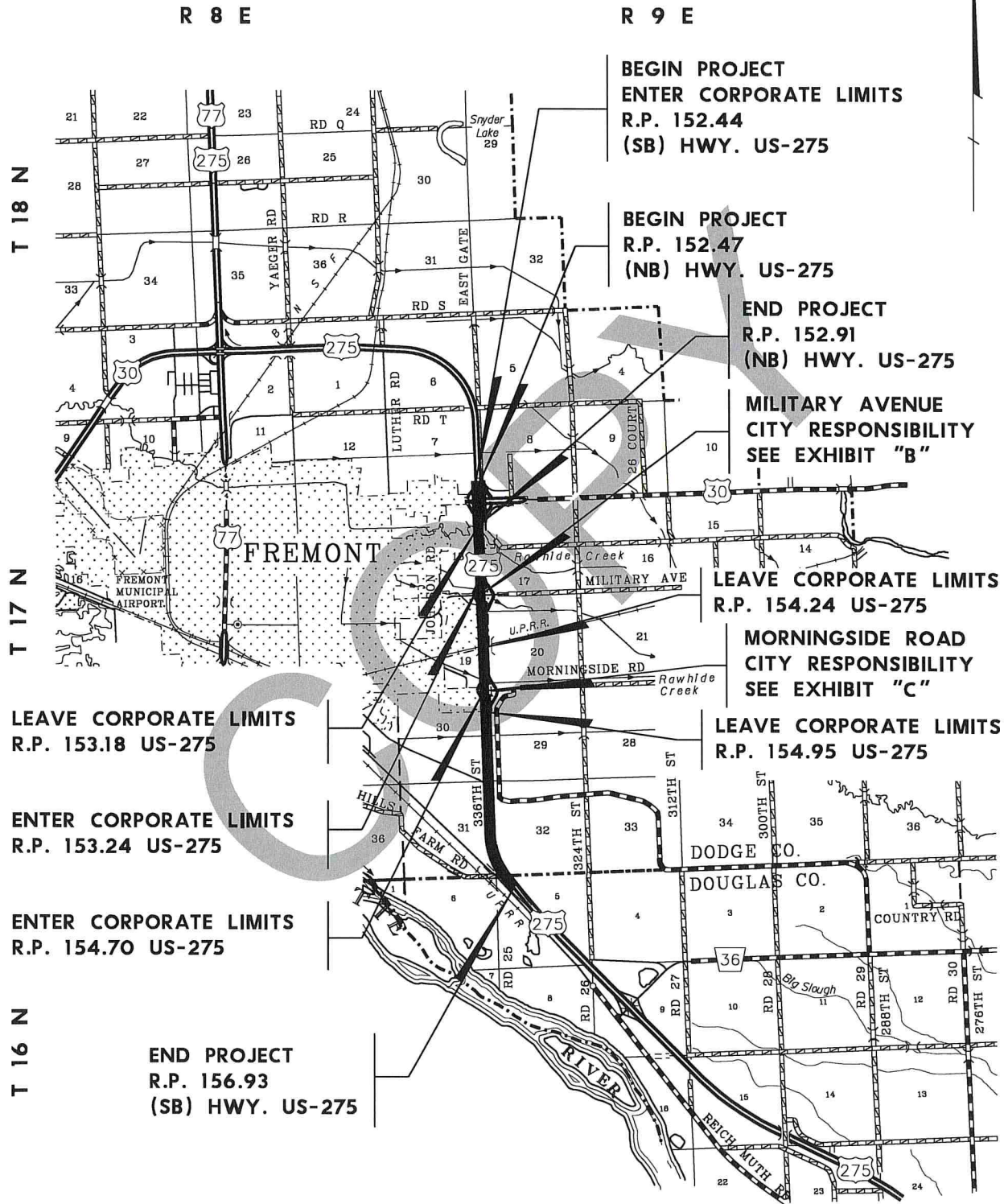
Page 11 of 11

Agreement No. XL2111



# DOUGLAS COUNTY LINE NORTH 275-6(139)

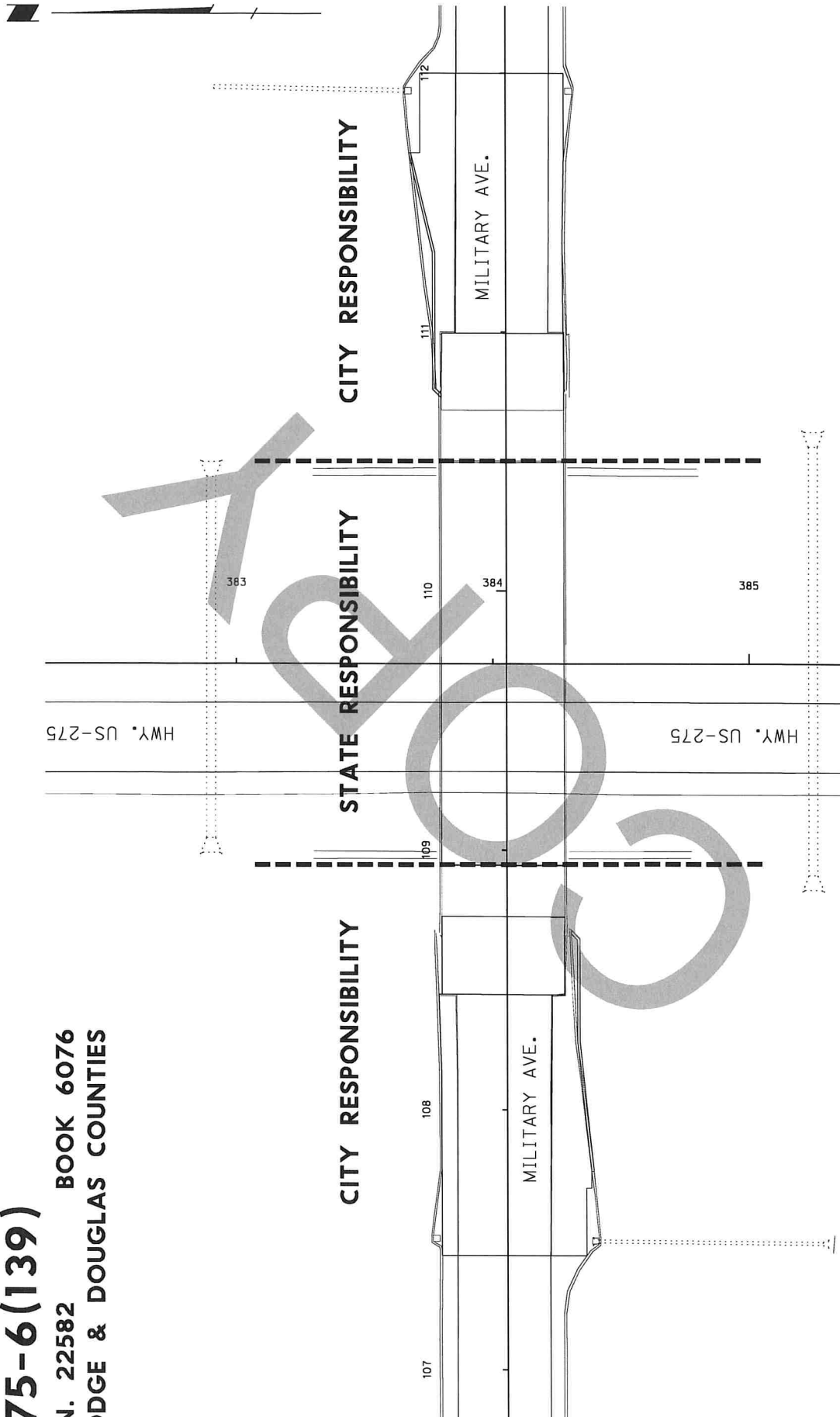
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DODGE & DOUGLAS COUNTIES



**EXHIBIT "A"**  
Agenda Item #8

**DOUGLAS COUNTY LINE NORTH**  
**275-6(139)**

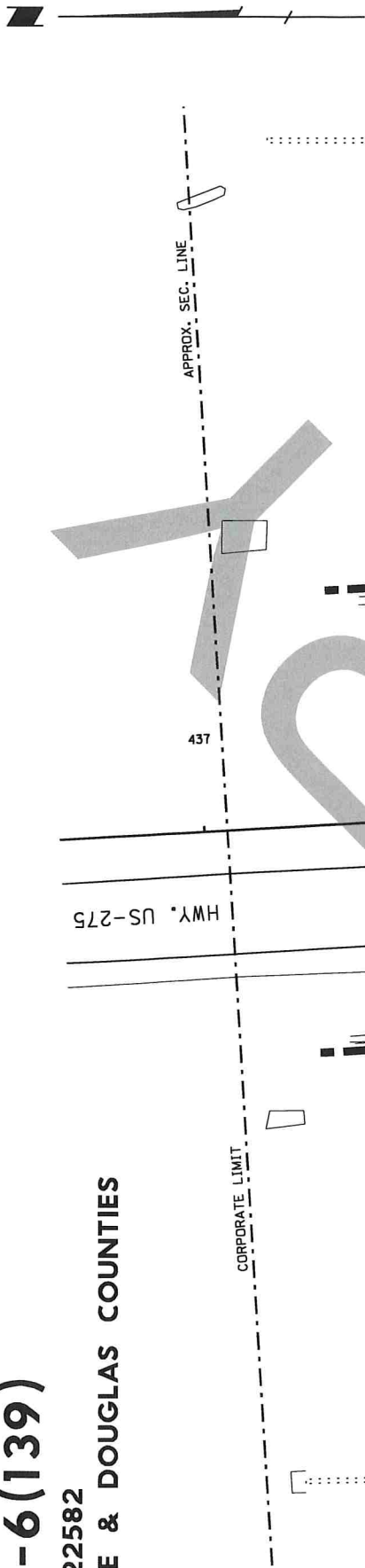
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DODGE & DOUGLAS COUNTIES



**EXHIBIT "B"**

**DOUGLAS COUNTY LINE NORTH  
275-6(139)**

**C.N. 22582  
DODGE & DOUGLAS COUNTIES**



**EXHIBIT "C"**